

ATTACHMENT 6 – MARCH 12, 2008 INTERVIEW OF LT. ROB ROBERTS, DFG-OSPR

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

* * * * *

Investigation of:

COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA

*
 *
 *
 * Docket No.: DCA-08-MM-004
 *
 *
 *

* * * * *

Interview of: ROB ROBERTS

Westin Hotel
 San Francisco, California

Wednesday,
 March 12, 2008

The above-captioned matter convened, pursuant to notice.

BEFORE: PAUL STANSEL
 CRYSTAL THOMAS

APPEARANCES:

CRYSTAL THOMAS

National Transportation Safety Board

PAUL STANSEL

Hazardous Materials Accident Investigator

National Transportation Safety Board

R.W. HOLLY, Captain

State of California, Department of Fish and Game

Office of Spill Prevention and Response

425G Executive Court North

Fairfield, CA 94585

(707) 864-4902

(707) 864-4910 (fax)

KIM ESTES

The Estes Group, LLC

4582 Newman Avenue

Cypress, CA 90630

(310)994-2510

(714)761-2438 (fax)

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Rob Roberts:	
By Ms. Thomas	4
By Mr. Stansel	50
By Mr. Estes	59
By Mr. Holly	70
By Ms. Thomas	76
By Mr. Stansel	86

I N T E R V I E W

(3:30 p.m.)

1
2
3 MS. THOMAS: March 12th, 2008, approximately 3:30 p.m.
4 We are at the Bay Model Center in Sausalito, California. This is
5 Crystal Thomas with the NTSB. Today we're going to be
6 interviewing Lieutenant Rob Roberts with the Department of Fish
7 and Game, OSPR. If we can go around the room and say who's here
8 today?

9 MR. STANSEL: Paul Stansel with the NTSB.

10 MR. ESTES: Kim Estes, the Estes Group, Oil Spill
11 Response Expert.

12 MR. HOLLY: Rick Holly, the Department of Fish and Game,
13 OSPR.

14 MS. THOMAS: And, Lieutenant Roberts, could you state
15 your full name and title?

16 MR. ROBERTS: Yeah, Rob Roberts, California Department
17 of Fish and Game, Lieutenant, with the Office of Spill Prevention
18 and Response, Northern California Response Division.

19 MS. THOMAS: And are you aware that the interview is
20 being recorded?

21 MR. ROBERTS: Yes.

22 MS. THOMAS: And you're okay with that?

23 MR. ROBERTS: Yes.

24 MS. THOMAS: Okay great.

25 INTERVIEW OF ROB ROBERTS

1 BY MS. THOMAS:

2 Q. So if we could just start by going over your background
3 and expertise? Just give us a brief description, please.

4 A. Yeah, I've been in state law enforcement for -- I just
5 finished my 18th year, specifically in environmental crime
6 enforcement response for the last seven years with the Department
7 of Fish and Game. And all that time has been with the Office of
8 Spill Prevention and Response in Northern California.

9 Q. Okay. And for the Cosco Busan incident, you assumed the
10 state on-scene coordinator role. What was entailed in that role?

11 A. Coordinating, managing and basically handling the
12 response activities on behalf of the state and the local
13 governments in the Bay area, as both a response, response
14 coordinator and as the trustee representing the State of
15 California, for environmental activities.

16 Q. Okay. And how many other times have you served as the
17 state on-scene coordinator?

18 A. In the last year, one or two. In the last seven years,
19 I've been probably a couple dozen times, medium size or -- well,
20 this was more of a medium, so of notable times, about two dozen.

21 Q. Okay. And how is it decided who's going to serve as the
22 SC role?

23 A. In oil spill, in marine oil spill, it's given to the
24 Office of Spill Prevention Response under the Department of Fish
25 and Game and that's a statutory Lambert-Keene Seastrand Act in the

1 California government code, and within the Office of Spill
2 Prevention and Response, numerous personnel have been identified
3 as being qualified to participate or engage as the state incident
4 commander, now called state incident on-scene coordinator. But
5 it's been primarily given to the enforcement branch throughout the
6 last few years. And so we've been trained through drills and
7 through ICS trainings, as incident commanders. So that's our
8 primary role, in response. We also take care of other positions
9 as investigations, sometimes the liaison and sometimes as the PIO,
10 also, but primarily we're looked at as functioning for the state
11 on-scene coordinator.

12 Q. Okay. As far as the Cosco Busan accident, when was your
13 first notification of the accident and from who were you notified,
14 what were you told and where were you at the time?

15 A. I was first notified November 7th, about 9:25, give or
16 take a minute or two, but right around 9:25 in the morning. I was
17 the Coast Guard Sector Command Center, Yerba Buena Island, San
18 Francisco, for a meeting with -- it's called the Neptune Coalition
19 but it was -- it's a meeting with California bay area law
20 enforcement that are specialized in marine response and I was
21 there for a meeting. It was supposed to start about 10:00, but I
22 had a meeting some of the Coast Guard commanders about a couple
23 other issues, so I got there a little early. And right when I
24 arrived at the station, a couple petty officers -- I don't
25 honestly remember who -- came running out of the Incident

1 Management Division doors and were headed down toward the dock and
2 they said hey, Lieutenant, are you here about the -- you know here
3 because of the bridge -- the vessel hitting the bridge? And I
4 said I didn't know anything about it. So that was the first time
5 I was notified, in person, on the station, Sector San Francisco.

6 Q. So once you received that notification just in passing
7 from the petty officers, where -- what was your next action?

8 A. I went straight up to the Incident Management Division,
9 which is upstairs in the sector command, and within a minute or
10 two I asked what was going on and they told me that it was
11 container ship, non-tank vessel, struck the bridge at about a
12 little less than an hour prior and I immediately called our deputy
13 administrator. No, I take that back. First I called our in-house
14 dispatch and they hadn't heard anything about it, so I had them
15 check with state OES to see if anybody had heard anything about it
16 or, you know, it was just kind of new news, and no one heard
17 anything about it. So I notified our deputy administration,
18 Bud Leland and that was around, I think, about 9:45. It was about
19 20 minutes later when I talked to dispatch and the deputy
20 administrator.

21 Q. Okay. And who were you required to notified? Once you
22 found out about the accident, were there any specific people that
23 you were required to notify?

24 A. Statutorily, we are mandated to ensure that state OES
25 and NRC are notified. So that was taken care of by inquiries by

1 myself into the -- calling the dispatch center and finding out
2 through OES channels if there's been any notification. By
3 statute, the responsible party of a spill or an incident has to
4 notify state OES immediately or as soon as practical if it's not
5 handling a life or a safety and that's in 8670 of the government
6 code. But that being said, if that had not been handled by
7 emergency personnel, whether it's state, local, city, we have a
8 responsibility and a mandate to notify state OES. So statutorily,
9 that's our mandate to notify.

10 Q. Okay. Who else were you -- did you have to notify
11 anybody else up your chain of command?

12 A. As a matter of policy and practice, we do notify our
13 next chain of command and if an incident meets a certain criteria,
14 we notify what's called an operations duty officer. And in that
15 instance, I did make notification to him. At the time, he was --
16 he's a lieutenant stationed in Southern California and I told him,
17 you know, that additional reports are a 900-plus-foot container
18 ship hit the bridge. We have no real further information on that,
19 whether it was an allision. And just for logistic purposes, I
20 serve as an ODO on a rotational basis and we've had a previous
21 arrangement where, if it's Northern California, even if he's the
22 operation duty officer, I'll handled it just because I'm familiar
23 with the politics, with the geography and the logistics. So I
24 notified him that there was a potential incident coming and then I
25 alleviated him from operation duty commitments for that specific

1 incident.

2 Q. Okay. And I just want to go through your timeline that
3 you prepared and just maybe elaborate on a few of the events. The
4 first one is at 9:45. It says that you assumed the state incident
5 command role and you requested a full Field Response Team.

6 A. Right. I was there with another warden that works for
7 me, Todd Ajari (ph.). Immediately knowing the potential for the
8 size of this, I -- we don't always bifurcate a lot of times on a
9 smaller incident. The FRT stands for Field Response Team and in
10 Northern California we have a pretty tight working organization.
11 And typically on smaller to moderate size spills we'll, you know,
12 assume both an investigative role and a response role. On this
13 one I immediately thought, you know, this is a bridge and it's a
14 900-foot container and there's a potential for huge damage,
15 although we didn't have any, you know, idea the time, but I
16 bifurcated it.

17 So I assigned Warden Ajari to handle a criminal
18 investigation so there wouldn't be any legal issues later on. And
19 I told him I was going to assume the -- as a senior officer, I
20 would assume the response because I had a feeling this was going
21 to be a pretty good size incident. Normally, we kind of don't
22 step in as the incident commander unless it's going to be elevated
23 to something, you know, that has either immediate or, as we deem,
24 you know, a type two response or higher. So I, you know, made
25 myself the incident commander and then I told Bud Leland, the

1 Deputy Administrator, that I was taking over the incident
2 response.

3 Q. And what sort of information gave you the impression
4 that it was a large -- that you thought it was going to be larger
5 response?

6 A. And just, you know, being completely honest, it was very
7 foggy. Just the idea of a 900-foot -- I mean, I've been on the
8 water my whole life and I've been boating my whole life and just a
9 900-foot container ship, I know what kind of speeds they have to
10 maneuver with the currents that we have sometimes in the bay, and
11 hitting something like the Bay Bridge, I just -- even if it
12 breached something above any kind of fuel line, I just had the
13 idea that, you know, we had a potential for something big here.
14 We weren't thinking of a grounding or, you know, something riding
15 over an anchor, but it was actually -- you know, we had an
16 allision and it was something that potentially could've been big,
17 so --

18 Q. So based on your experience?

19 A. Yes.

20 Q. Okay. All right. And then I want to go a little
21 further down the timeline. At 10:07 the O'Brien's Group contacted
22 the Sector Command Center. Do you know what they contacted the
23 Command Center --

24 A. No.

25 Q. -- regarding?

1 A. No, I was not engaged with the Sector Command Center at
2 that point.

3 Q. Okay. And then at 10:30 the O'Brien's Group notified
4 the Sector Command Center that they were the QI, the qualified
5 individual, coordinating the response. Were you familiar with the
6 O'Brien's Group?

7 A. I've worked with them on a minimal basis in the past,
8 but they're basically -- they're based more out of Southern
9 California, their response group that contracts with some of the
10 larger refineries and shipping companies.

11 Q. Okay.

12 A. And they're more prominent, although they are now
13 migrating to the north. But they've been more prominent in
14 Seattle and up in the Southern California area.

15 Q. And just backing up one second here, it says that UC was
16 established on YBI at 9:45. Who was there at the time the unified
17 command was established?

18 A. I actually established the unified command. There was a
19 junior officer, Lieutenant JG -- I can't think of her name right
20 now, but she --

21 Q. Snyder?

22 A. Yeah, Jessica Snyder and Chief Mosley were on scene and
23 I asked at -- or just a little before 9:45 I asked who was going
24 to be the federal on-scene coordinator, and she said he had more
25 experience than her, so she gave, she gave him the -- she said,

1 you know, you're going to be the rep for this. And I said okay,
2 I'm going to take it for the state level and we need to figure out
3 who the QI is and we need to start making notifications too -- a
4 full FRT, Field Response Team, around, including an oil spill
5 prevention specialist and a couple of environmental scientists.
6 So I had them en route already and then we started notifying -- I
7 told Ensign Snyder, JG Snyder, that we started making
8 notifications to both the federal and state partners, just
9 resource agent and land managers, a potential spill. So --

10 Q. Okay.

11 A. -- we started that all around 9:45.

12 Q. So Captain Uberti (ph.) was going to serve as the
13 federal on-scene coordinator?

14 A. It was not identified to me at that point --

15 Q. Okay.

16 A. -- because they were -- at least as far as I knew. I
17 didn't have any interactions with Captain Uberti until about noon.

18 Q. About noon?

19 A. Yeah, I didn't know where he was or what he was doing.

20 Q. Okay. I'm sorry, can you just repeat? Who did they say
21 was going to serve as the federal --

22 A. At the time, around 9:45, JG Snyder said that Chief
23 Mosley --

24 Q. Mosley?

25 A. -- Dave Mosley was going to be the --

1 Q. Okay.

2 A. -- FOIC because he had more experience.

3 Q. Okay. So now coming back to the O'Brien's Group, what
4 sort of communication did you have with the O'Brien's Group before
5 they arrived at the unified command?

6 A. The only interaction I had before they arrived on scene
7 was a -- and I want to put it gently -- a frustrated telephone
8 conversation with the person that was identified as going to be
9 the incident commander, Barry McFarland, but he was on the road,
10 on Interstate 5, driving up and I told him I didn't -- as the
11 state on-scene coordinator, I didn't recognize him as a part of
12 the unified command until he was on scene. So that was the first
13 interaction I had with him and that was, I think -- I know I have
14 that documented here, but it was around, oh, 14:15.

15 Q. 14:15 is when you spoke with --

16 A. Yeah, 14 hours. Yeah, 14:15, so 2:15 in the afternoon.

17 Q. So he still wasn't there at that point?

18 A. No, no.

19 Q. But that was the first time you spoke with him?

20 A. Yes, the first time with anybody involved with the
21 responsible party representative.

22 Q. Okay. So what occurred during the time you were waiting
23 for the QI to arrive at the UC?

24 A. We asked for a state investigator to get on board and
25 just based on training and background, over the years, I've

1 maintained a good relationship with our investigators and sort of
2 a higher level of credibility and voracity for being able cage
3 incidents. So I wanted our own people on. Before I made any
4 report to my chain of command, up to the governor's office, I
5 wanted to make sure that what I was reporting was something I
6 could substantiate with state personnel. So I asked for that. We
7 made notifications to state parks, called for -- National
8 Sanctuary, National Park Service. We've been in contact with --
9 the Coast Guard and myself had been in contact with the City of
10 San Francisco via -- not the elected officials, but via the fire
11 department and the police department there, on-water assets, and
12 then just making phone calls, trying to assess the situation,
13 trying to get information.

14 There was a lot of confusion. No one really had a good
15 idea where -- if there was oil and where it was, although we were
16 getting reports from ferry operators that they thought they saw a
17 big slug of oil headed out toward the Golden Gate Bridge and that
18 was around 11:30.

19 Q. Okay. So initially the unified command was kind of just
20 yourself, Mosley -- Snyder was around?

21 A. Yeah, she was kind of deputy FOIC.

22 Q. Okay.

23 A. In that capacity, yeah.

24 Q. Okay. And then I see here, at 10:50, Ajari confirms
25 moderate oil along ferry building.

1 A. Yeah, I sent him over to do a little bit of driving,
2 since we couldn't get a helicopter air asset in, so I sent him to
3 go check the San Francisco waterfront, because I know how the
4 currents backtrack that way.

5 Q. Great. And then, at 10:54, the U.S. Coast Guard
6 Pollution Investigation Team relays the ship engineer's report of
7 a hundred and forty-six gallons. What did you think of that
8 number?

9 A. That was given to me via Dave Mosley. He said that
10 there -- and I honestly don't know if I typed this on, but I was
11 told a hundred and forty-two, is what I recall, so I don't know --

12 Q. Okay.

13 A. -- for the 146. But anyway, a hundred forty-two or a
14 hundred and forty-six, my initial thought was that they meant a
15 hundred and forty-six metric tons or a hundred and forty-six long
16 tons or a hundred and forty-six barrels. But the idea within --
17 and this is what time? This is 10:00. So within an hour and a
18 half, we had it down to within six gallons. I mean a hundred and
19 forty-six, a hundred -- I just didn't know how they could
20 conceivably -- even if the chief engineer was doing some
21 calculations of transfer and I knew that they were going to try to
22 list it, I just didn't understand how -- I figured that must be a
23 communication error. Then I was told -- you know, I was trying to
24 ascertain what flag the vessel was and I was told it was, you
25 know, a Chinese flag but then it was Korean and I said okay.

1 Well, maybe we're not talking the same language. So I asked
2 again, is it a hundred and forty-six tons? Is it a hundred and
3 forty-six barrels? It must be a hundred and forty-six barrels
4 that he's missing. And they said, no, it's a hundred and forty-
5 six gallons or a hundred and forty-two, whatever the number was.
6 And I didn't -- to me, I didn't believe that at all.

7 Q. Did you convey that to Mosley, that you weren't really
8 sure about --

9 A. No, I just told him -- I said, you must be talking about
10 barrels, a hundred and forty-six barrels. And they said, well,
11 that's what I'm being told, so -- but at the time I had sent -- at
12 this point I had instructed -- OSP was on the scene, too.
13 Roy Mathur -- his name is and he was on scene with Ajari and I
14 said, you stick with it, you know, you're the cop; Warden Ajari,
15 you're the officer, you stick with Roy. Whatever he needs, you're
16 at his disposal and get this information ASAP to me soon. Those
17 were the instructions to our team.

18 Q. Okay. And at that point had you received -- had the
19 unified command received reports of any other oil sightings?

20 A. At what point?

21 Q. At 10:54 when you got the estimate of a hundred and
22 forty-six gallons.

23 A. I don't think so. Just -- other than Warden Ajari came
24 back, he came back to the command post and said hey, there's some
25 moderate oil underneath Pier 1 at, you know, the ferry building.

1 Q. Okay. And then I see from the timeline that, at 12:05,
2 Roy Mathur was on board the Cosco Busan. What time was he sent
3 out? What time was he dispatched to the Cosco Busan?

4 A. Probably real close to 9:30 is when he was notified to
5 get out there.

6 Q. And are you aware of what took so long for him to get
7 out there?

8 A. I know he was on scene by around 10:00, because I know
9 that I married him up with Warden Ajari and told him -- I'm
10 running the response but I'm also the chief investigator right
11 now. I married them up and said hey, in our structure, the OSPS
12 is our pollution specialist and they're not actually sworn peace
13 officers, so a lot of times they get a good -- they can --
14 rapport, but sometimes on foreign flags it's, right or wrong, when
15 a gun and a badge walk on, they get a lot more cooperation.

16 So I know it was around ten'ish and I was under the
17 impression that they were underway until it was exactly -- I
18 remember it was exactly 12:05 because we had a news conference and
19 as I looked behind me, out on the dock I saw Warden Ajari, his
20 trainee, Warden O'Brien, and Roy Mathur getting on -- just
21 stepping on a fishing -- a 41-foot Coast Guard boat right at
22 12:00. So I thought they had already been out there for an hour
23 or so. So that was the first time that I found out and I asked
24 them later and they said they didn't want to bug me because they
25 knew I was running around and they were trying everything they

1 could to get on board the Cosco Busan.

2 Q. Do you know what the delays were attributed to?

3 A. I know secondhand, but I wasn't informed. I mean, I
4 asked them later --

5 Q. Okay.

6 A. -- the next day, what they told me. I'm sure Roy's
7 probably told you.

8 Q. Okay. And then I see the 12:10 press conference you
9 just mentioned. What was discussed during that press conference
10 and who was present for it?

11 A. That was myself, Lieutenant Anya Hunter from the Coast
12 Guard, Captain Bill Uberti from the Coast Guard, and a Caltrans
13 spokesperson. And 98 percent of that media release was about the
14 -- from Caltrans and was about the bridge, you know, did sustain
15 an impact but they had since done tests on it and it was, it was
16 uninjured and the fendering system broke away the way it was
17 supposed to, so -- but it was set for 12:05 and I remember looking
18 at my watch and it started right at 12:10.

19 Q. Was there any discussion of quantity spilled at that
20 point?

21 A. If there was, I didn't address it at all because I was
22 very -- I've been down that road before, so I didn't -- I know
23 that -- I think, I think Captain Uberti may have mentioned a
24 quantity, but I'm not sure. But I know that they were kind of
25 asking, but the emphasis, like I said, was 98 percent, was this a

1 terrorist incident and what's the damage to the bridge at this
2 point? And it was a Caltrans media event, telling that their
3 fendering system had broken away and did everything it was
4 supposed to do, so --

5 Q. What would be standard, at that point, as far as
6 releasing a quantity? Is it standard to release a spill quantity
7 that's just an estimate? Is it standard to release a potential
8 spill? What's standard?

9 A. Well, there really isn't a standard, but in the response
10 industry, at least in this state and from my experience and
11 training, you want to be very careful with what you report as a
12 state entity. As history has shown, we can go by what's reported
13 on the state OES or National Response Center and by the time we
14 get out there, it's tenfold. A lot of times there's under-
15 reporting. Sometimes it's honest, I mean, and it's unintentional.
16 They think -- but they're, you know, not going to want to over-
17 report something and cause a frenzy. So at least the standard in
18 Northern California marine spill response is not to give any
19 numbers until we've got something to wrap our hands around.

20 So we'll say, you know, a pipeline discharged an unknown
21 quantity of diesel, or there's a sheen, you know, a certain size
22 of a sheen or whatever, but we're very, very careful about what we
23 put out to the media because it can always come back on us. So
24 until we have some kind of a number that's been verified by one of
25 our own people, we don't quote that. So that's the standard for

1 at least the state's response. I know sometimes the Coast Guard
2 or cities do something different, but at least at OSPR, that's our
3 response.

4 Q. Okay. Then moving on in the timeline a little bit,
5 12:44, the unified command receives trajectory from NOAA. What
6 was done with this information from NOAA and was it used to direct
7 any of the on-water recovery operations?

8 A. Yes, it was given to the Coast Guard from NOAA and our
9 planning section, which -- you know, under ICS, we don't fill all
10 these lower positions, you know, like wildlife recovery or SCAT.
11 So the couple of biologists that I had on scene at that point took
12 that information and started going through the ACP, the Area
13 Contingency Plan, to make notifications, also to start identifying
14 where we should start setting up assets.

15 At that point, we still didn't have any aerial
16 observation, so we were trying to track it down with local vessel
17 operators on the bay and see if we can visual. We had a couple of
18 boats, Coast Guard boats, out looking. But I know that they were
19 putting that in a quick 201 to get some on-water operations
20 moving. And that was relayed out to -- I think it was NRC. We
21 had two companies out, two OSROs out there on the bay, but one of
22 them was in contact and it was NRC that was in contact with our
23 planning section, which is Kathleen Jennings.

24 Q. So how would the NOAA spill trajectory be used in aiding
25 the deployment of the NRCES and MSRC?

1 A. How would that -- because we -- it basically gives you a
2 forecast of where the oil should go, based on averages and on
3 rainfall and like we were a little bit this morning. But -- so we
4 knew what the currents were at the time, so all we could do was
5 try to figure out, with the tidal cycles, currents and natural
6 eddies, where that would be going. So we tried to use that to get
7 ahead of it or at least forecast where it would be, you know, an
8 hour after when we got that. So that's kind of the methodology.
9 It's not a hundred percent accurate because, again, it's based on
10 averages and forecasts, but that's what they use it for.

11 Q. Okay. But is that correct, at 12:44, when the unified
12 command receives the NOAA trajectory, Barry McFarland, from the
13 O'Brien's was not --

14 A. No, he was not around, no.

15 Q. So --

16 A. They were operating out of their shop, I believe, over
17 in Alameda somewhere, a crew. I think it was in Alameda.

18 Q. So if they weren't part of the unified command yet,
19 would they have been privy to the NOAA information that came in?

20 A. They may not have been in an immediacy. I don't know if
21 it was relayed over the radio or the phone or whatever. But I
22 know that our planning section, we had instructed them to start
23 looking at the sensitive sites, to start protecting right away and
24 so they were in phone communications and that was part of what
25 hampered this, is -- I don't know what time the NRC folks got on

1 scene, but until we actually had somebody there -- because
2 everything else was via radio and telephone. So if some
3 information would come in, we'd have to call NRC's shop to relay
4 it out to their boats, to find out where they were and so there
5 was a little bit of a delay in that. But they were operating on
6 their own, for the most part, NRC, and they were actually doing as
7 good a job as we could've instructed them, because they've drilled
8 with us, they've trained with us, they're the professional on-
9 water recovery experts. And so they were, you know, out there
10 trying to scout out where the oil was. So I think it actually
11 worked out.

12 As crazy as it sounds, it worked out to benefit and
13 that's why some of our numbers are so high, is that we typically,
14 in a perfect scenario, would've had somebody from the company
15 there working with us in the planning section and they would be
16 operations and we would be dictating, you know, with them, where
17 to go. But taking that middleman out, they were just out there
18 tracking the oil on their own, without having a centralized
19 location. And we don't like to say that outwardly, but you know,
20 in this exact -- in this instance it actually seemed to be sort of
21 an advantage to us, to take that middleman out.

22 Q. So nobody from the unified command was directing the two
23 OSROs?

24 A. Not for the first few hours, no.

25 Q. Okay. And you're unaware that the O'Brien's Group was

1 directing them either?

2 A. They were giving them -- training to ascertain what kind
3 of resources were being deployed, but again, I didn't acknowledge
4 them. The only information I had, I talked to one of them at
5 14:15. At 2:15 in the afternoon I talked with Barry McFarland, he
6 was on I-5 and started telling me what he wanted to do and I said,
7 until you or somebody's here, we're running this like an orphan's
8 -- we call it an orphan's spill, when there's no responsible party
9 engaged. So we ran it just as -- and the unified command was
10 state and federal and I tried telling Bill Uberti that when he
11 finally come out and he says, we need to get them in here. And I
12 said no, this is -- we're it. Until somebody shows up at our
13 door, I'm not going to talk to somebody on a phone. I don't know
14 who they are.

15 Q. Okay. And was 12:44 the first time that the NOAA tool
16 was available?

17 A. That I'm aware of, yeah, and I actually got that
18 information for -- that one bullet there I got for an OSPR
19 interview that was being done. And so they wanted to know when we
20 first got information and so I actually -- that's when
21 Kathleen Jennings and Randy Emi (ph.) got it, who worked for me.

22 Q. Okay. Would it have been helpful if the trajectory was
23 available sooner, based on the fact that the QI was not present?

24 A. Again, I don't really think so. We're only looking at
25 three and a half hours after the incident and again, it is a

1 trajectory and it's a good starting reference but, at 12:44, we
2 were still pretty much working in the dark. We had, you know,
3 300-foot of visibility and that was about it. So you know, the
4 radars that the vessels have don't -- they don't -- they can't see
5 oil on the water. You know, there is a flare system now that can
6 detect, you know, thermal changes that we may be able to do at
7 some point, but the technology that we had the time, we had to do
8 a, pretty much, visual, a visual look for oil.

9 Q. Okay. And I just want to continue back on the timeline
10 a little bit more. 13:58, Al Storm, the Sacramento liaison, was
11 contacted to notify Cal. State Senate and Assembly members. Who
12 was contacted?

13 A. I sent him a request. I called him on the phone and
14 based on previous spills I'd had, I said, you know, let's get out
15 ahead of this. The media is starting to show up. Please notify
16 all elected state officials. I didn't, at that time, drill down
17 to the county supervisors and the city mayors, because there's a
18 lot. But I wanted at least every elected legislator, you know,
19 the state senators, the state assembly. And I asked him to reach
20 out and touch everyone and let them know that we are aware of it
21 and we're responding, just so their offices were proactively
22 contacted.

23 Q. And do you know if he made those contacts?

24 A. He ended up sending an e-mail later in the day, around
25 4:00, 4:30, which is something we've looked at since. But yeah,

1 he at least made an e-mail attempt and he did e-mail the city's --
2 the mayor's office, I think, at 4:30 also.

3 Q. Do you know why he didn't do it when you asked him to?

4 A. I don't know. I think, looking into a little bit, I
5 think it was a training issue. The person that we typically have
6 take the lead in our liaison function was out on family leave, so
7 I think this was just a training issue.

8 Q. Okay. And what was Al Storm's role?

9 A. He was -- I asked him to be the liaison officer. And
10 again, it wasn't an on-scene because this was all still developing
11 and this was all still -- you know, we're still building
12 information to figure out what we have here, but I wanted some
13 public outreach and do some -- and again, this is just from doing
14 this for seven years and knowing what worked well and what didn't
15 work in some of the other spills. A lot of damage control was
16 done by letting elected officials know before the media, so
17 they're not calling us. So that was the intent, to get out there.
18 And then actually San Francisco and Oakland were both supposed to
19 be notified, just because they're big, you know, political players
20 in that.

21 Q. And those were part of the notifications you asked him
22 to make?

23 A. Yeah. And he did, he sent e-mails to them all. But
24 again, I think they didn't go out until about 4:30.

25 Q. Okay. How did the weather, and not being able to get an

1 over-flight out immediately, affect recovery operations on day
2 one?

3 A. That was huge, huge, because, again, the bay area is
4 very dynamic. I think part of the, part of the downfall about the
5 quantification mix-up numbers were nobody saw any oil and I think
6 -- and this is just in retrospect now, because I can't -- I wasn't
7 there. I can't say what was going through the minds of people who
8 identified 142 or 400 or whatever numbers they were coming up
9 with. But I think it was hard for anyone to believe that that
10 much oil -- because they just didn't see it and I think because of
11 the -- if we could've gotten a helicopter up within an hour, they
12 could've seen this giant slug of oil headed right out to the Gate
13 and we could've been ahead of it as it was moving, because these
14 tides shift back and forth pretty quickly.

15 In a, you know, six-hour window we'll get two different
16 tide cycles. So that was huge and I'm very impressed with what we
17 did get, just because of the amount of assets that we had, because
18 the spill happened in the backyard of -- I mean, basically at the
19 front step of the two large oil spill response organizations.
20 Now, if this had Monterey or Fort Bragg, with this kind of fog, a
21 whole different story, but it happened right there and they were
22 out within an hour. We had, you know, stuff out on the water and
23 it was just sheer luck that they were getting some of the oil at
24 that point.

25 Q. So it was luck and not strategic placement of the --

1 A. Well, it's a small area in the bay, fortunately, and it
2 kind of bottlenoses in there, bottlenecks in there. But the fact
3 that they were out in a quick second, I think that we happened to
4 go through it a couple of times to get that kind of recovery. And
5 even the afternoon before it had a chance to dissipate, at least
6 they were out on station when we did finally get some eyes in the
7 air. But to answer your question, it was huge to not be able to
8 see where this oil was and immediately identify it, because 58,000
9 gallons or 53, 54,000, whatever the final numbers are going to be,
10 ultimately, you know, that dispersed and that encompassed a large
11 area. And if we could've been up in the air we would've seen it.

12 Q. And was the weather conditions and the way that they
13 were affecting the response, was that discussed in the unified
14 command? Were there any other strategies you used, based on the
15 fact that you weren't going to have good weather conditions?

16 A. That was. We were waiting -- everything we had going
17 was still anticipating getting a helicopter. We kept saying,
18 okay, it's going to lift any minute, and we kept waiting for the
19 fog to lift and it didn't. And finally, when it did enough that a
20 helicopter, Coast Guard helicopter, I think they had mechanical
21 problems, is what I was told. They had to be -- they had to
22 ground again. So we actually went with a contract helicopter that
23 O'Brien's or NRC or used for on-water operations. But again, that
24 was huge, huge detriment to the response and we still did
25 phenomenal. But absolutely, if it would've been a clear day, it

1 would've been a whole different story.

2 Q. If it would've been a clear day and you would've been
3 able to get the over-flights right away, how would that have
4 affected the two OSROs, seeing that O'Brien's Group wasn't on the
5 scene until 4:00 in the afternoon?

6 A. I don't know.

7 Q. Who would've directed them?

8 A. Oh, we would've.

9 Q. You would've directed them?

10 A. Yeah, yeah, the state -- would've, yeah.

11 Q. Okay. Are they able to be directed by you or do they
12 have to be --

13 A. Absolutely. Yeah, we have contracts. The federal
14 government has what's called a BOA and that's a --

15 Q. What is that?

16 A. Oh, what does BOA stand for?

17 MR. HOLLY: Let me think about it.

18 MR. ROBERTS: It's a pre-established contract, though,
19 so you don't have go through any government contracts and do
20 bidding and stuff like that. So they're pre-identified. Do you
21 know what BOA is?

22 MR. STANSEL: A basic ordering agreement.

23 MR. ROBERTS: Okay, that's what it is. But it's
24 basically -- it circumvents the whole GSA system of bids and you
25 know, things they've identified ahead of time for just such an

1 emergency, that they won't get in trouble for, well, why did you
2 -- why did you use our service and not theirs and blah, blah,
3 blah? You know, because it's federal dollars, so --

4 MS. THOMAS: Okay.

5 MR. ROBERTS: -- it's -- and it's a set price and it's
6 been structured already. So both of those companies, the federal
7 government has BOAs for. And in a response where we don't have a
8 responsible party right away, the federal government, along with
9 the state, but the federal government kind of takes the lead,
10 since they're going to be paying for it and funding it. So they
11 would've -- we would've used them both anyway, because again,
12 we're not -- we'll go back after the responsible party later. So
13 if we could've seen it, it wouldn't have mattered, we'd have been
14 out and had them all there.

15 BY MS. THOMAS:

16 Q. Okay. So moving on a little bit, your -- the
17 investigators, the Department of Fish and Game investigators,
18 Roy Mathur, specifically, was still on board the Cosco Busan,
19 trying to get a number. Did you have any contact with him while
20 he was on board the Cosco Busan?

21 A. No, no.

22 Q. Okay. So before he got back, was there any other
23 reports of quantities that came into the UC?

24 A. No. It's been bounced around with several
25 investigations, a number of 400 gallons. I never heard that, so I

1 don't know if that went in one ear and out the other. I can't say
2 that I didn't hear it, but it never registered to me. I know that
3 it was a hundred and forty-something gallons and then, when Roy
4 called me at 4:30 or whatever, 4:45, and he says, are you sitting
5 down? And I said, where are you? And he said, I'm up at the IFD
6 and this is the number. So that was the only two different
7 numbers I ever got.

8 Q. Okay. So at 16:00 hours the unified command official
9 established, according to your notes, correct?

10 A. Okay, right. And that was with, I believe, a member of
11 NRC, Barry -- Barry Kevan was actually there as the QI.

12 Q. Okay. So O'Brien's Group still wasn't there?

13 A. No.

14 Q. But they were serving as --

15 A. Yes.

16 Q. -- the responsible party?

17 A. Barry McFarland, at 2:15, when I called him I said,
18 well, we're not going to recognize you guys until someone's here.
19 So he called Barry Kevan from NRC and had him respond to YBI to
20 speak on behalf of them. So he actually stepped in at that point.

21 Q. Okay. So what happened at 16:00 hours, when it was
22 officially established? Okay, what was going on at that --

23 A. That's when I first had interaction with Captain Uberti
24 about the Cosco Busan incident, other than the press release, and
25 then he went somewhere else. I don't know where he went. Oh, I

1 think he actually went on a couple of tours in a boat or
2 something. So he never really told me that he was the FOIC, he
3 never officially, until that point that he came in and I said,
4 well, CO, are you going to be taking this over? And he said yes.
5 So that's when -- that's why I have it I my notes, because at
6 16:00 we had said, let's all regroup, because were all kind of
7 doing our thing, trying to figure out -- trying to get some intel.
8 We had the Oiled Wildlife Care Network activated because, you
9 know, if we've got a lot of oil, we're going to have a lot of
10 birds, is what I was thinking, so I got them going.

11 We got several other -- you know, Alcatraz was contacted
12 because they were seeing oil and they asked about shutting down
13 the public part of their -- where they do the tours and the
14 excursions and I put them in touch with -- hygienist and we were
15 doing a lot of stuff. So at 16:00, I said, let's all circle the
16 wagons and regroup and see what we've got and combine intel. And
17 that's when Captain Uberti came in and I asked him and he said
18 yeah, he's going to be the incident commander for it. So that was
19 the first official point where I had a triumvirate, myself,
20 Captain Uberti and then somebody representing the ship.

21 Q. Okay. And what was discussed during that meeting? What
22 sort of objectives were discussed?

23 A. Just it was a real rough thumbnail sketch we just -- you
24 know, recover oil, safety plan, let's get somebody to work up a
25 safety plan, any -- you know, what kind of material are we talking

1 about? IFO 380. Okay, so it is definitely a lunger. It's an
2 intermediate fuel oil, yeah. So we had some properties to start
3 telling the public, because now some people are seeing it. The
4 Port of San Francisco said they can smell it and they want to
5 evacuate the buildings and there was a lot of issues. And until I
6 officially knew, I was trying to get -- I heard it was an
7 intermediate fuel oil, but I couldn't a hundred percent establish
8 that until, you know, the Coast Guard came back and said yeah,
9 it's definitely the fuel oil.

10 So things like that, those were the objections and they
11 were really rough, just to -- we're still working on what's called
12 a 201, just getting the basic IEP together for that afternoon and
13 we weren't even really looking at tomorrow's, yet. We were still
14 trying to get our arms around everything. But we had a helicopter
15 now, a private helicopter in the air and they were getting some
16 intel back to us and saying, yeah, we're starting to see bits and
17 pieces of it. But the Coast Guard still wasn't thinking it was
18 really more than a couple hundred gallons.

19 Q. Do you know what led them to believe that it wasn't more
20 than that?

21 A. They just couldn't find the oil. There wasn't any large
22 amounts of oil.

23 Q. What about, did they talk -- did you talk in that
24 unified command about that reports that were coming in from here
25 or there?

1 A. We had -- yeah, we discussed it. If there was some
2 pushback, maybe it's the same little bit of oil that Hornblower
3 yacht saw, that Golden Gate Ferry saw, that Blue and Gold Fleet
4 saw. You know, they all reported going through a slug of oil, but
5 we couldn't positively say that it was different slugs or
6 different times. But we were getting multiple reports, calling
7 in. Again, I've been seven years in the same area. Everyone has
8 my shoe phone number. It's a joke, you know, like Maxwell Smart.
9 They just kept calling.

10 My cell wouldn't stop and I had state parks calling and
11 I had County Marine calling and they were starting to see oil, on
12 Angel Island they were starting to see it. So we were getting
13 reports but we hadn't really consolidated all the reports and we
14 didn't have a pin map at the time. Again, this is still a lot of
15 dynamics and we were blind. And yeah, we were still going full
16 speed ahead. I asked about getting a strike team activated to go
17 out there and help us get some eyes on the water and they said,
18 you know, we don't think it's necessary yet.

19 Q. Were you privy to information concerning the damage to
20 the vessel itself?

21 A. I saw some photos on a camera card and I did see the
22 side of that and that was around 3:00 and that's when I went, oh,
23 wow, you know? And they were telling me, well, the engineer got
24 the transfer oil over quickly, and to me, that didn't make sense
25 because I went, wait a minute, you got -- depending on where the -

1 - I mean, how much they had in there -- again, I'm not a merchant
2 mariner but I've been around enough to know that somebody's got to
3 heat it up and it takes a while to transfer. And so to me, this
4 was -- I don't know. How do you strike the bridge at even eight,
5 nine knots, minimum, to be able to navigate the current on that
6 side of the vessel? And then it turns out it was quite a bit
7 more. But you know, to hit something like that and how do you
8 transfer? So again, I was like, it's got to be. It went out --
9 it's way down south in South Bay and it's done something we've
10 never seen or it's just gone outside the Gate and we got lucky
11 because we weren't seeing oil. But just looking at pictures of
12 it, I mean, everyone has seen it now. I mean, I don't know why
13 people didn't think it was the end of the world?

14 Q. And who were you having discussions with at this point?
15 Not Captain Uberti, because he wasn't really around.

16 A. At 16:00 he was. But prior to that, it was just with
17 the chief and with Jessica Snyder, Lieutenant JG Snyder.

18 Q. Did you have any communication with
19 Commander DeQuattro?

20 A. I don't remember it and he said he was around, but I
21 don't remember talking to him much. I think he was in the Command
22 Center a lot and I didn't go in the Command Center because I
23 needed to have my cell phone and you can't use cell phones in the
24 Command Center.

25 Q. So what did the focus seem to be, you know, in the

1 hours, you know, immediately following when you were there and
2 then between that and 16:00 hours? I mean, what was the focus?
3 Was it getting recovery, checking on the recovery vessels, seeing
4 what they're doing? Was it assessing the oil spill? What seemed
5 to be the focus?

6 A. It was looking for the oil and find out what we had on
7 our hands, how much it was and where we had it.

8 Q. What did the mentality seem to be in the room, was there
9 a concern that it could be worse or was it kind of just --

10 A. Yeah, yeah, yeah, there was a lot of concern, especially
11 with our biologists. I mean, we wouldn't notify as many agencies
12 and entities. We wouldn't notify both the -- and National Parks
13 just to say the sky is falling. We activated or we put the Oiled
14 Wildlife Care Network on standby, which is -- you know, in itself
15 is something. We didn't activate them, but we put them on
16 standby, meaning, we're starting this process. But no,
17 definitely, we over-responded. We're taught this. And Rick can
18 tell you.

19 We're taught, in our organization, at least, in most oil
20 spills, that we over-respond. It's easier to back off than it is
21 to call them later. So we went full on and you know, for the most
22 part, there was a lot of concern and you know, just frustration
23 that we couldn't find the oil and we knew there had to be some out
24 there. We didn't know how much. I didn't know if it was 10,000
25 gallons or five or 50,000. I didn't. Or 200,000, you know. But

1 that was the big thing, just trying to get intelligence and it was
2 very frustrating because we kept be told every half-hour, okay,
3 the helicopter -- the fog's going to clear. The helicopter will
4 go up. And then I would check. Did Station Air San Francisco get
5 going? No. Did they get going? No. And every half-hour -- 20
6 more minutes. And then we were being told, no, we can't get up in
7 the air yet.

8 Q. Okay. And as far as you're saying over-responding,
9 that's just not the response vessels, that's over-responding as
10 far as making notifications?

11 A. Yeah, notifications to personnel. We had asked
12 Sacramento for -- you know, to start getting personnel put on
13 notice to just not go on vacation or whatever, you know, that type
14 of thing. We've got an incident and you know -- so we were -- you
15 know, everyone was, at least in the state and mostly the Coast
16 Guard's junior officers, they were running around and trying to
17 figure out what was going on.

18 Q. So just kind of preparing for the worse?

19 A. Right.

20 Q. Okay. So then, according to the timeline, 1700 hours,
21 5:00, Roy Mathur let everybody know that it was about 58,000
22 gallons?

23 A. Yeah, he actually only told me. And that's previous
24 instructions that we've had, is that he works for me in a response
25 and he -- the information goes to the unified command goes through

1 me because, again, he's working sort of in the initial phase of
2 the response. He's working to try to determine the size and what
3 -- it's like -- you know, using an analogy, he's like an officer
4 involved in a shooting. There's some criminal potential liability
5 issues that go around that and they're not supposed to say certain
6 things because it could potentially incriminate him. You know,
7 but also there's the safety aspect to it, like how many shots were
8 fired, how many suspects are there?

9 We're allowed to ask them certain questions that don't
10 violate the Fourth Amendment. Well, this is the same way with
11 this, because, potentially, this is a criminal investigation. So
12 I sent him out there as a criminal investigator but also as a
13 response professional, saying, tell me -- be my eyes and ears and
14 tell me what's going on. And then, once we have the safety of the
15 public, safety of the environment, safety of property and we know
16 what we're looking at, we've got our hands around it, then I shut
17 him down and now he works for the investigation. But there's a
18 clause there, an ability for him to give me information.

19 So along those lines, you give your information to me,
20 or any state on-scene coordinator, give me what you've got, I'll
21 digest it, we'll talk it over briefly, and that's -- and it's just
22 to cover his butt and mine. And so when he called me and I said
23 okay, is the chief engineer -- because this is a huge number
24 compared to what everyone else was operating on. And the Coast
25 Guard -- I do know the Coast Guard did another press release that

1 didn't have anything to do with us, but they put it out on their
2 own and I think they minimized the -- they didn't really say a
3 number or anything, but I think they really kind of downplayed it
4 in the sort of flavor of the release. So I said okay, this is
5 going to fly in the face of a lot of stuff that's been going out
6 for the last three four or hours. And he says it's 58,000 --
7 gauged every single tank. And I said, well, okay, because they
8 said they couldn't do it. And he said, well, it was simple. I
9 mean, the tubes are bent and I had them crack the manhole. You
10 know, there's 30 bolts and they got pneumatics and pulled them
11 off. I said okay, that's all I want to hear, brother.

12 So you know, but I walked him through, as along like
13 he's a defense attorney. Is this -- okay, did it meet this, did
14 it meet this, did it meet this? Yeah. So then I was comfortable
15 at that point, because I knew -- I just know. I mean, I'm 41
16 years old. There's a couple things I've learned -- something that
17 different. So when I felt comfortable I went -- within two
18 minutes I called -- first, my phone call was to
19 Bud Leland. Before I even told anybody, I said hey, boss, guess
20 what? This is the real deal now, 58,000. And so -- yes, at that
21 point. But then I went down and told the captain and he didn't
22 want to believe it.

23 Q. Captain Uberti?

24 A. Yeah.

25 Q. Okay. So just to clarify, you talked to Roy Mathur on

1 the phone?

2 A. On the phone, yeah.

3 Q. Okay.

4 A. I was in -- I was downstairs in the -- well, it's a
5 conference room in YBI. I was in the conference downstairs. He
6 was in the building next to me, upstairs in Incident Management.
7 And I asked him to go over numbers to verify with the Coast Guard
8 person on board and make sure the chief engineer of the vessel was
9 privy to this and would -- you know, that we had some kind of --
10 engaged everything with me.

11 Q. Okay. So what time did you tell the unified commander,
12 or Captain Uberti? I'm sorry.

13 A. About a minute or two -- I called Bud Leland and I was
14 on the phone less than a minute, so about 17:16, 17:17. These are
15 numbers I took off my cell phone, so I know that I called Bud
16 Leland. At 5:15 I called Bud Leland off my cell log, so probably
17 17:17 I told the commander -- Captain Uberti.

18 Q. And he just didn't want to believe it?

19 A. He started questioning me. He says, well, how do we
20 know that? I said, well, Roy Mathur did this, this and this. And
21 he said -- and I believe he sent another team. I don't know, to
22 this day, what they did. But he said, well, we haven't seen any
23 oil, and he was incredulous. On his part, he didn't think it was
24 -- he thought we must've made a mistake or he started asking,
25 well, you know, the ship was listing. And I said yeah, they

1 listed, I think, to starboard to elevate the port side and to stop
2 some of the flow, you know, bow down and we're aware of all of
3 that. We've gone through the calculations with him. And he says
4 -- so he didn't want to believe that it was that much fuel in the
5 water. And that was part of the issue the rest of the afternoon
6 and the rest evening, was that he still wasn't believing me,
7 because he was out, I guess. I found out later that he was out in
8 a boat, looking. He had lots of people out and they just didn't
9 see oil, so he had a hard time. And his concern was that if we
10 put out a number like that and it wasn't true, then we would just
11 be looking ridiculous. But I told him, I said, I feel comfortable
12 and if you don't get out, we have to get out. We have a -- you
13 know, we have a responsibility to the state to get this
14 information out.

15 Q. So when did he accept that number? When was that number
16 really --

17 A. At 8:00, Captain Swatland, who was the deputy FOIC at
18 the time, Captain Swatland actually got on a call with the state
19 OES people, at their request, the state OES, because there was a
20 lot of conflicting data. As I understand, Bud Leland did update
21 state OES and those are records you guys could easily look into.
22 But I think Bud Leland updated that OES number, saying the number
23 is 58,000 gallons. It should've been right around
24 5:00 or 5:15. It should've been right around 5:15, 5:18. And so
25 now OES is getting an update of 58,000 -- what they were

1 originally told, around 200 or 150 gallons or something. So then
2 they said, we need to have a conference call with the Coast Guard,
3 and 8:00 is when -- toward the middle of that conversation, I was
4 on that conference call and that's when he said, you know, we're
5 looking at 58,000 gallons. So that was the first time they really
6 formally acknowledged it to anybody.

7 Q. And that was at 8:00 p.m.?

8 A. Yeah. Well, the conference call started at 8:00 p.m. I
9 don't know when in that, but on that conference call is when that
10 went out to anyone who was on the line.

11 Q. So who was all involved in that and what was discussed
12 during that call?

13 A. That was pretty much just an intel, giving a situational
14 briefing to cities and counties that were hearing all kinds of
15 different reports. And the media had stuff wrong. I mean, they
16 were running with everything. But that was kind of just to get
17 everything out in the open and it was just a situational update
18 first state OES to get out to the rest of the counties.

19 Q. So that was essentially the first time that the
20 localities were notified, is that right?

21 A. I think maybe formally by the Coast Guard, but I know we
22 updated state OES early, but Alameda was the only one that was
23 formally notified of it, Alameda, all the entities within Alameda
24 County, because the responsible party of the shipping folks
25 reporter per law. By law they reported to state OES, but they

1 reported -- it was happening in Alameda County and the way the
2 system is set up, it just notified the county that's affected. So
3 it went out to several state agencies, but the City of San
4 Francisco, the County of San Francisco, Marin, Contra Costa, San
5 Mateo, none of them were notified via the OES warning center,
6 early on when we notified them at 9:30, 9:45.

7 Q. And that was based on what the O'Brien's Group reported
8 to OES?

9 A. I think it was the O'Brien's Group but I also think the
10 ship -- I know there was several reports, I think, early on, but I
11 don't know the timelines on those. Because, again, I found about
12 it before OES did. So I don't know.

13 Q. So when was the 58,000 gallon estimate reported to the
14 public?

15 A. Probably when the Coast Guard put out a press release at
16 2100, so --

17 Q. That was included in that?

18 A. Yeah, that was definitely included in that. But as far
19 as the public not knowing at around the 5:30 hour, I have no idea
20 why they don't, because that's when I formally notified the deputy
21 administration and he notified state OES. So I don't know. It
22 wasn't a secret. This is public information. So I don't know why
23 that didn't.

24 Q. At the conference call at 8:00, was everybody kind of
25 comfortable with the 58,000 gallons or were there still questions?

1 A. They were -- well, I don't know if comfortable is the
2 word. They were -- they believed it, they just were wondering why
3 now we're just finding out at 8:00 or 8:30. That was kind of the
4 concerns, because they were responding to the political pressures
5 from their bosses, too, just asking -- you know, we're hearing
6 reports of this or a report of that. And I think some news
7 choppers had gotten up and seen some oil. And so no one really
8 had a good idea at that point.

9 Q. Okay. And the corrective operations were shut down that
10 evening?

11 A. On-water operations were shut down, yes. We still had
12 some people doing -- writing an IAP for the following morning,
13 well into two, 3:00 in the morning. And we had decided to move
14 the -- part of what we were doing too, between 4:00 and 6:00, was
15 trying to identify a command post that would be suitable for this.
16 The responsible party wanted to put it in Oakland or Alameda, at
17 the NRC, and I said no, we need to have it in San Francisco,
18 because based on the intelligence I've got, it's been impacting
19 San Francisco waterfront and it's going to hit Marin County
20 tomorrow.

21 But unfortunately there was a big convention in San
22 Francisco and every single hotel, every hotel lobby and conference
23 room facility was booked, everything. So we had a little, tiny
24 fire station that the National Park Service gave us and that's
25 something, in hindsight, we probably should've done it -- the

1 state -- or something. But at the time, we just found out 58,000
2 and we were trying to make some immediate plans and I wanted to
3 keep it in San Francisco. And so I actually dictated that one, so
4 I'll take the blame on that one, because I said I want to keep in
5 San Francisco or Marin. I don't want to do East Bay in case we
6 have some issues with the bridge or new traffic.

7 Q. Okay. And what were you using to guide your actions?

8 A. What was I using?

9 Q. Yes, what sort of -- what guide -- is it the ACP that
10 would guide your --

11 A. That's what -- our planning folks were using the ACP.
12 As the overall manager, I was using just experience and training
13 and we have a little cheat sheet or cheat book, what we use in
14 incident -- you know, a management handbook. But no, the
15 operation and the planning were being managed by the Area
16 Contingency Plan.

17 Q. How familiar are you with the ACP two-site strategies?

18 A. Me, I'm aware that they're there, but as far as formally
19 implementing them and knowing them in an intimate manage -- or an
20 intimate knowledge, no, I don't know. I mean, I've been involved
21 in utilizing them but I haven't written them and I haven't really
22 spent a lot of time studying them, I guess. I knew more of
23 setting objectives as the unified commander. So as an incident
24 commander, I set an objective and then I leave the tactics to
25 planning and operations. So they're the ones who are intimately

1 familiar with strategies and sensitive site protection and stuff
2 like that.

3 Q. Okay. And then, in the ACP, the concerns and advice for
4 responders and prevention objectives and conditions for
5 deployment, do you know if this information was used by the
6 planning committee to guide the decision-making process?

7 A. The planning committee?

8 Q. I'm sorry, the planning section.

9 A. Oh, yeah, absolutely.

10 Q. Sorry.

11 A. Yeah, yeah, it was totally utilized, yeah.

12 Q. Okay.

13 A. And the people that -- where we had plugged into
14 planning and ops, originally were heavily involved in actually
15 writing it. So that's how familiar they were. They tested the
16 boom strategy through our sensitive site evaluation program, in
17 which they do three or four, every quarter, in the bay area. And
18 then, every time we have a drill -- and you heard today, there's
19 upwards to 300 in the bay area. In the north, we probably
20 participate in 200 of those and we always utilize the ACP and
21 that's the first document -- so absolutely, that's one thing.
22 Yeah, they are intimately familiar with the ACP.

23 Q. Okay. So the planning section will be using that and
24 basically feeding the information up --

25 A. Yeah.

1 Q. -- is that correct?

2 A. And NRC and MSRC, too, use that automatically, because
3 they head straight into that, yeah.

4 Q. Okay. All right. So how did you feel the unified
5 command was? Did you feel it was operational -- did you think it
6 went well? Were there any concerns? Were there any problems with
7 the unified command? I know that Barry McFarland didn't arrive
8 until later in the day.

9 A. Yeah, that was a little bit of an issue, but you know,
10 we respond to orphan spills frequently and it's a little difficult
11 to say, because I work really tight in partnership with the Coast
12 Guard. But on this specific event, their chief of Incident
13 Management, who, like my counterpart in the north, he was out of
14 the area. He's from Washington, D.C.

15 Q. Avoni (ph.).

16 A. Commander Avoni. And he is the A team for that. His
17 assistant, who's Lieutenant Kirksey (ph.), wasn't there right then
18 either. And so there was a junior officer and a chief and the
19 chief's preseasoned but he's just recently been sent out here in
20 the last year or so and the dynamics are different here than they
21 are in the Seventh District down there in Florida. And so -- and
22 again, I hadn't really worked this captain at a port much, but he
23 -- yeah, it could've been a little better. In hindsight, I think
24 if the captain of the port -- if the sector commander had stuck
25 around, if he's going to be the FOIC, if he'd have stuck around

1 and not gone on a boat and kind of taking a look around and stuff,
2 you know, delegated that, because there were decisions that had to
3 be made, that I ended up just taking and doing. A lot of the
4 stuff that -- for the ISPR, at least, I told the ISPR, hey, yeah,
5 we did it as a unified command. But to be honest, it was a
6 majority that was -- I mean, having an expert like Roy Mathur, who
7 knows how to do that and having people who wrote the ACP in my
8 planning section.

9 And it happened to me -- I mean, I happened to be there.
10 I mean, God knows, if I'd have been, you know, at some meeting in
11 Fairfield and hadn't found out until 10:00, until I got paged by
12 OES or -- you know, just that it was fortuitous that I was on the
13 island for something totally irrelevant when this all went down,
14 because -- you know, I mean, I think it was reported at a hundred
15 and forty-two gallons or something. I think that's what
16 originally the OES report was, a hundred and forty-two gallons and
17 you know, we get that frequently and we'll send -- and sometimes
18 we'll call the Coast Guard. Hey, what are you guys doing? It's
19 only -- you know, it's a hundred and forty-two.

20 We're not going to drive for three hours, because a lot
21 of times it dissipates or it moves around by then. So a lot of
22 what happened, it was -- and it's awkward to say, but it's
23 fortuitous, one, again, that I was, you know, on the scene when it
24 happened, and then, two, that based on the intel that we had and
25 the proximity, you know, we had two of probably the best

1 responders on the environmental science side -- a team for the FRT
2 was there. And Roy, you know, is as accomplished and experienced
3 as anybody in the state, for day service for quantification
4 issues. So it just happened that, even with the Coast Guard not
5 having their "A team" there, we were there to, you know, at least
6 spearhead the investigation and the response. That was my
7 frustration, is that, you know, it just seemed like it was
8 anything that could've been, Murphy's Law, but anything that
9 could've gone wrong with the fog.

10 And the chief of IND and the assistant chief of IND and
11 the sector commander were out on a boat somewhere. You know, just
12 anything that could've gone wrong seemed to take a turn that way,
13 on that side. So that was my only frustration. But you know, as
14 far as the response, it didn't hamper it, it didn't hamper our
15 response, but it just made it a little more difficult from a state
16 perspective.

17 Q. Do you think there would've been more -- we talked to
18 Avoni and he seemed very knowledgeable and I know he wasn't
19 there --

20 A. He is.

21 Q. -- at the time. And do you think there would've been
22 any questioning based on, you know, the size of the tear, the
23 different oil reportings?

24 A. I think if Avoni had been there, he would've been of the
25 same mindset of myself, that as soon as we got photos back, within

1 an hour that vessel skirting out to Anchorage 9 -- or 7. But when
2 they first -- the first anchorage and took some photos and we came
3 back and anyone, you know -- and again, I can't -- it's pure
4 speculation. I can't say what Avoni would or wouldn't have done.
5 But, you know, you're asking -- and this is purely speculation,
6 unsubstantiated but for the record, but I think he's of the same
7 mindset. He would've said, you know, come on, there had to be oil
8 somewhere, because he and I trained together and we've drilled
9 together and we've worked -- for three years we've worked
10 seamlessly and that's part of the rapport we've enjoyed and that's
11 why I was there, to -- I mean, because I work on a daily basis,
12 almost, with the Coast Guard.

13 Q. So would you say that a big part of to being successful
14 in oil spill response would be experience?

15 A. Absolutely. There is no substitute for experience. You
16 can drill and train and practice, but until you get out, you can't
17 have all the injects of weather and politicians and the media and
18 commute traffic and a vessel not being operational or somebody
19 being sick. I mean, there's too many injects and this was like a
20 drill, that people kept throwing us curve balls. It just kept
21 happening. What do you mean, you know? And we've got, you know,
22 Pier 39 and that's where all the economic interests come in. Hey,
23 should we shut down? We're smelling fuel. Should we shut the
24 amusement parks? Should we shut the -- everything coming at you
25 at one time and it's like, wait a minute, they're telling me it's

1 only a hundred and forty-two gallons. How can I have oil here,
2 here, here and here and you guys are within two hours. So it was
3 like -- yeah, and there is no substitute for experience,
4 absolutely. And Roy could train and train and train and train,
5 but until you've sailed -- and this gentleman probably can tell
6 you. Until you've sailed on board and you know, they can tell
7 you, well, that's how we gauge them, with these tubes, you know, a
8 gauging tube and their vent. But unless you know -- heck, you can
9 crack a -- open that up, you know, or, you know the intimate
10 operations or how to get around a lockout, which I don't know.

11 I mean, I've taken tours and I know we can look down the
12 ballast tanks or whatever and they can show you a lockout, like
13 this and that, but there's ways around it that the chief engineer
14 knows. And there's, you know, pocket logs that are kept by these
15 chief engineers to pass on to the next one. There's all this
16 stuff in the trade that, unless you actually are in it, school
17 books won't teach you and going through a college or a training
18 course won't teach you, until you actually smell and have gotten
19 dirty and actually have done it.

20 MS. THOMAS: Okay. Well, I've talked a long time. I'm
21 going to pass it on to Paul and see if he has some questions.

22 BY MR. STANSEL:

23 Q. Just a very few -- a lot of it. But I'd like to revisit
24 the -- Paul Stansel with NTSB -- I'd like to revisit the question
25 about your contact or interaction with the OSROs --

1 A. Um-hum.

2 Q. -- in the early hours of the spill. You mentioned that,
3 based on your drills and exercises with them, you had a lot of
4 experience working together --

5 A. Yes.

6 Q. -- with the OSROs. Did you have some sort of
7 expectation of what sort of things they would be doing out on the
8 water, as they were acting on their own that day?

9 A. Oh, absolutely. With those two companies -- and you
10 know, again, they have merged over the years. It used to be Clean
11 Bay and Foss (ph.) and we had lots of them, but they basically
12 boiled down in the last few years to two companies. And so having
13 done so, they're the only two real -- the only show in town, for
14 lack of a better word. So every one of these drills that we go
15 to, we typically have a tabletop and then what's called a
16 deployment -- upon it later, either previous or secondarily to it.

17 And we've ended up becoming very, very familiar with
18 each other, maybe not always allied in the same way thinking-wise,
19 but we know each other's expectations and you build a certain
20 level of a trust. And even though some of the things they do may
21 drive you nuts, I know they do it well and they know exactly what
22 they're doing. So I personally have witnessed dozens and dozens
23 of equipment -- by NRC and by MSRC in these exact same areas. And
24 we've also done announced drills with them, where -- you know,
25 that we've -- you know, we have an expectation and we test a

1 certain percentage of it, and I have witnessed that myself.
2 Everybody that was involved in this response has been assigned up
3 here at least three or four years and some of us, you know, seven,
4 eight, nine, ten years. And so we've seen like, again, dozens and
5 dozens of real-time deployments as well as, you know, smaller
6 incidents, whether it be a pipeline leak or a barge that, you
7 know, discharged or a plant that, you know, released some stuff in
8 the inner harbor of Richmond out of the refinery.

9 So we have a working relationship, a working rapport and
10 they come almost every single -- both companies come to almost
11 every single -- multiple people from their companies come to every
12 single ACP, are actively engaged in their area communities here.
13 I mean, financially, it's a financially lucrative forum, because
14 they need contacts and they need Chevron, BP and some more area
15 partners and when new people move in.

16 So there's a financial basis for it too, but in the same
17 regard, they definitely are familiar, they're intimate with our
18 waterways. They're local responders, so they live here too. So
19 it really is sort of -- at least in San Francisco. And again, if
20 this had been Monterey or Fort Bragg, it's a whole different
21 animal, but this happened where they live, where they work, they
22 their kids recreate and have complete faith with working with them
23 all the time.

24 Q. Did you have a good sense for the level of their
25 response early on? Did they communicate that with you?

1 A. No, that was the one thing. I didn't know -- I was
2 getting bits and pieces and trying to identify what we had out
3 there. But again, part of the confusion was -- and I'm sure you
4 guys have delved down into this. But as I was told, the vessel
5 actually changed ownership within like 30 days of this incident.
6 So although they had -- financial responsibility on file with the
7 state and they had sea plan that was filed, there was a little bit
8 of a mix-up in some of the paperwork, on computer, and it said it
9 was, you know, one registry and then another company. So I wasn't
10 sure if it was MSRC or NRC, and then to compound that, when I get
11 reports, hey, so who's out there? Who do we got out there? We
12 made some phone calls and we were getting them and they said okay,
13 the Clean Bay II is out there or something.

14 Oh, okay, well -- and then they hear something else like
15 -- because they're responding. Is it MSRC or NRC? Who's out
16 there on behalf of this vessel? And then talking to the O'Brien's
17 Group, he said, well, NRC is going to be our official responder.
18 Okay. But then I'm hearing MSRC people on -- I could even hear
19 some of the radio talk and it turned out -- in hindsight, I found
20 out later that both had just self-deployed. I mean, one had
21 gotten the call but the other one kind of overheard it too and so
22 it was a self-deployment and -- they're going to get paid back
23 because of their intimacy with the Area Contingency Plan and the
24 federal fund and all of that, they knew they were going to go out
25 and help and then we'll go back to the barn. But one, this is a

1 training, we'll get credit for training and we'll get credit for
2 pick up. And so there was -- that added to a little bit of the
3 confusion, but they were both out there running around. And so
4 early on I was being told one company and then another and so I
5 was a little uncomfortable and I realized now I know why I was
6 uncomfortable with it, because I thought I was hearing different
7 information, but they were both actually out there.

8 Q. And were they communicating with you at any point?

9 A. They were communicating with my planning section chief,
10 which was Randy Emi.

11 Q. Okay. And were you getting any feedback as to how much
12 oil they were finding or where it was located?

13 A. Not specifics but I was being told that they were
14 getting -- they found some oil, they were getting, you know, heavy
15 amounts of oil and again, I wasn't sure. You know, how do you
16 really quantify that, because it starts getting emulsified with
17 water and stuff. But they were saying some magnanimous amounts of
18 oil they were running into toward, you know, early afternoon. And
19 I was like, wow, you know, so -- but again, no specific
20 quantities. But they were saying, hey, we're, you know, running
21 at full capacity, this skimmer and this and that. Nothing
22 specific to this day. And we have documentation from them, but at
23 the time, I wasn't getting specific numbers, but they were saying,
24 hey, we're recovering a bunch of oil here or we found some oil
25 there.

1 Q. You didn't have any concerns early on, as far as we need
2 to get some resources directed --

3 A. No, because again --

4 Q. -- to the specific locations?

5 A. -- it was the lights -- it was in this room, the lights
6 were out and they said, we've got a bunch of guinea pigs running
7 around. Let's find them. You know, so we were -- I was just --
8 you know, anything they found, anything they could find was just
9 lucky.

10 Q. So you didn't have a specific need to be in --

11 A. No, no.

12 Q. -- contact with them?

13 A. No, we didn't know what we had. We had no eyes in the
14 sky and we were just getting sporadic reports and unconfirmed.

15 Q. Regarding the ISPR report, there was mention that a lack
16 of contractor equipment information readily available to the
17 unified command --

18 A. Right.

19 Q. -- reduced the efficiency and effectiveness of the
20 response. Was that a problem for you?

21 A. No. And I read that too and it wasn't. Not for me. I
22 knew we had -- now, again, I couldn't tell you specifically what
23 we had, but I knew that we had assets out there and I knew that
24 they had deployed everything pretty -- they were getting
25 everything underway. And again, I had people in light blue shirts

1 telling me it was a hundred and forty-two gallons. And so to me
2 it was never an issue, but I knew -- I know the motivation there,
3 it's dollars and they're out and they're running and they want,
4 you know -- if they do a good job, then all of the companies would
5 pick them up, you know, so --

6 Q. In terms of managing the response, maybe later on, after
7 the second or third day --

8 A. Sure.

9 Q. -- and so on, was it necessary for you to know where --
10 how many resources there were and --

11 A. Oh, yeah, yeah. Once we had a better picture, any
12 picture, for that matter, of what we were looking at now, then
13 absolutely, as far as response, you need to know what you got and
14 where you are, because it's all part of the, you know, setting up
15 operational plans for the next day. So absolutely, that's --

16 Q. And so did you have that --

17 A. Absolutely, yeah. Oh, yeah, absolutely. That first
18 day, there was a lot of -- again, we didn't have anybody until,
19 you know, 4:00 or something or whenever. We didn't have anybody
20 in the command post from the -- you know, from the private sector.

21 Q. Did you communicate any of the reported spill amounts to
22 the OSROs, the hundred and forty-six gallons?

23 A. No, no, no.

24 Q. And do you know if they were operating on that figure?

25 A. I don't think so. They may have. I don't know what

1 they were operating on, but they sure sent a lot of vessels out
2 for -- I mean, I don't know what they would've done. I'm not in
3 that business, but they sure sent a lot out.

4 Q. You don't know whether they over-responded to the
5 incident or they were holding assets back because of the reported
6 low volume?

7 A. I don't know. Yeah, really, we don't use over-respond
8 in our industry, in our business. We don't use that word.

9 Q. Okay. And how would you --

10 A. We've got under-respond but we don't -- there's no such
11 think as over-respond.

12 Q. There's no such thing.

13 A. I mean, as I was saying, it's a lot easier to justify
14 pulling troops back than to -- you know, than to wait, saying --
15 it is a no win situation sometimes, but if you don't know, it's
16 better to send them and you can get out of trouble a lot easier
17 that way than waiting around.

18 Q. When that initial quantification report was received,
19 the hundred and forty-six gallons, when it was received there in
20 the UC, you were skeptical of that number, but how did the others
21 receive that?

22 A. I think there was a mixed range there. I mean, I was
23 skeptical. I know my staff was skeptical. I can't really speak
24 for the junior officers, because I don't want to -- you know, it's
25 hard. They're in a precarious position. But the sector commander

1 was very skeptical, I will say that.

2 Q. Were they concerned about the maximum potential the
3 spill exhibited, how much were in the tanks to begin with?

4 A. I don't know.

5 Q. Was that number provided to you?

6 A. No. We were trying to figure out what -- I did ask at
7 one point, I think, after an hour or two. But again, I just go
8 strictly off of 900-foot container ship. I knew the potential.
9 And again, I didn't -- we didn't have -- none of us had intel that
10 it was the third, fourth or second, or whatever, tanks were
11 breached. We just knew it was port side and it hit the delta
12 span. We knew that -- you know, we knew the specific areas, but
13 nobody had told me, you know, Tank 2, Tank 3, Tank 9, Tank 12,
14 whatever. So I just went with 900-foot. I don't know if it
15 gashed the whole side, the front of it. I didn't get any real
16 intel right away.

17 Q. Okay. All right, I'm going to shift gears a little bit.
18 Concerning -- and this would be later on in the response, the
19 actions -- and we heard a little bit about it today, where the
20 local agencies, out of frustration, were doing actions on their
21 own or separate of the unified command. Were some of their
22 concerns being conveyed to you?

23 A. Later on in the response, yeah, day two, day three, we
24 started hearing.

25 Q. How were they being acted on? Were you receiving the

1 requests and directing people to comply with them?

2 A. Yeah. And again, this is -- we entered a whole new
3 realm here. This is a -- we had a lot of people that wanted to
4 start getting involved, having them take a proactive approach to
5 it, as you heard today, prior to that, but -- and there was also
6 an educational process. I had the board of supes from several
7 cities, one large city and the pier heads, to be specific, and
8 they were concerned about several issues and it was an educational
9 process. They didn't understand how the unified command worked.
10 They had been used to a wildfire. They had been used to a
11 Homeland Security drill. And so there was a lot of concern about
12 -- obviously a lot of concern about -- and a lot of that was just
13 not being educated and not understanding how oil spills are run.

14 Q. Did they make any demands for resources that might've
15 reduced the overall effectiveness of --

16 A. No.

17 Q. -- your operations?

18 A. No.

19 MR. STANSEL: Okay. All right, at this point, I'll pass
20 on to Kim.

21 BY MR. ESTES:

22 Q. Hi, Kim Estes. Regarding my questions you answered,
23 how many times have you been SOSOC in an oil spill of this
24 magnitude?

25 A. Of this magnitude?

1 Q. Yeah.

2 A. This is the first. I had a pretty good size spill out
3 of the SOSC back in 2004 that I think generated, at least, the
4 first two days the same kind of media, national media attention.
5 It was a pipeline spill that went out on the wire, on AP, as a
6 million gallons and so I got the governor involved and you know,
7 four or five federal Congressional people were involved, but this
8 is the second time of this magnitude, yeah.

9 Q. From that response to this one, do you see a lot lacking
10 in -- as far as productivity was concerned? The end result and --

11 A. No. End result, again, the numbers speak for themselves
12 based on the weather hindrance we had. But again, this is an
13 evolving landscape and you got to be privy to some of the issues
14 and I'm not sure, to this day, that some of the things are going
15 to be able to be addressed. I mean, you heard one where we put a
16 fourth person in unified command still representing nine counties
17 and a hundred and one cities, I'm not sure that one or six or
18 seven -- I mean -- and that's just one example, but this -- the
19 landscape of this whole arena is changing. I've had several
20 smaller ones in-between those two, but that one I would put close
21 in the first couple days, but then when they realized it was only
22 -- I don't even remember. What was that, 156 gallons, 156,000
23 gallons of diesel?

24 Q. We're talking about --

25 A. Yeah, pretty good.

1 Q. A couple hundred, I think.

2 A. Well, we had a couple hundred thousand gallons of
3 diesel, but it -- but you know, we had Congressional oversight and
4 all kinds of stuff going on -- EPA. But the dynamics are changing
5 with involvement, you know, post-9/11 this is continuing to
6 evolve, post-Katrina, more community involvement, more citizen
7 involvement. I just keep seeing it change and change and we can
8 try to address things in the ACP and we can try to learn, but some
9 of the stuff that we corrected from that one, and I specifically
10 alluded to notifying stakeholders on my end, just saying hey,
11 getting out in front of that horse, again, there's -- you know,
12 we've learned from that, but yet, it still failed because we
13 didn't go down to the city level and we didn't notify city or
14 board supervisors and I think there's always going to be issues,
15 but you know.

16 Q. Okay. So I got a couple of follow-up questions and
17 they'll be iterated here, so would you say that they, that group,
18 the response group or the total response and I'll include everyone
19 inside that total response including the people who you had at
20 your side -- would you say they performed as well or better than
21 you expected?

22 A. I think so. I think, given the dynamics that we're
23 under and the pressure and the logistics, we really had two
24 responses. We had the oil spill and I alluded to a little bit of
25 that when the lady from -- was saying that this and this and if

1 you just look strictly at the oil spill, we did a great job, we
2 did. Even with the weather and the FOIC kind of having a hard
3 time putting his arms around that kind -- early on. With all that
4 going on, we had an incredible amount of resources cascading in.
5 I never felt like we were lacking.

6 At one point, I was feeling a little under the gun with
7 not having environmental science folks, either state or federal,
8 you know, regulatory. We can bring in a plethora of paid
9 consultants from colleges, universities, but I wanted people that
10 I could stand a red face test to some senate oversight or chairman
11 of the NTSB or whatever, saying you know, this regulatory person,
12 this is being by us -- tax dollars and they were looking out for
13 -- aside from that, I never felt like we were not doing the right
14 thing, the response. Now we had the political spill and the press
15 and that was a whole different animal and that's where all these
16 issues and these hits are arising.

17 I think, you know, a lot of it's going to be addressed,
18 a lot of it. If this happened next year, we're still going to see
19 a lot, but as far as the spill, itself, the -- picking up oil,
20 protecting the environment and wearing my trusty hat, my trusty
21 State of California -- that never really -- that I'm completely
22 satisfied. And for seven years doing nothing but oil spill in the
23 marine environment, that was run -- seamlessly and I'd give a name
24 on it, but --

25 Q. That's fine. And I was just going to ask you, zero to

1 hundred per cent scale --

2 A. Yeah.

3 Q. -- giving 92 per cent --

4 A. Yeah, 92, 93 somewhere in there. Yeah.

5 Q. Yeah. So even -- because you've managed events or
6 spills, I'll call them spills.

7 A. Incidents, right.

8 Q. Incidents that are orphan --

9 A. Uh-huh.

10 Q. -- did that give you the experience or the background
11 and knowledge to move forward even without a QI?

12 A. Absolutely.

13 Q. Yeah.

14 A. Absolutely.

15 Q. Okay. All right, so -- but okay, one more thing. Would
16 you have given and would you -- I don't think you did, but would
17 you have given orders for people to move without -- like
18 equipment, moving on the water?

19 A. Yeah. If we would've -- it was kind of being done
20 without being given orders, but we were trying to get -- at some
21 point I would've said okay -- we're taking this, you know,
22 Hornblower. We'll pay you back later.

23 Q. Um-hum.

24 A. Fire boat, whatever. Get --

25 Q. So you had visuals?

1 A. Right.

2 Q. Something that wouldn't be based on just a trajectory?

3 A. No.

4 Q. -- visuals.

5 A. I needed real time -- I mean, like anything else. I

6 mean -- and the same way, I know, with you guys, any of you that

7 respond. You need -- at some point, I need to know what we got.

8 Q. Okay.

9 A. Or we're spinning our wheels and people get hurt that

10 way.

11 Q. Yeah.

12 A. In a fog.

13 Q. Yeah. When you mentioned that the -- you told the QI

14 that you had an upgraded number, meaning the number which -- was

15 much larger than the first --

16 A. Yeah.

17 Q. Was the QI ever around?

18 A. I don't remember. I know Barry Kevan, who was -- yes,

19 Kevan was there.

20 Q. He was there, okay.

21 A. Yeah, absolutely.

22 Q. That's fine. Okay.

23 A. And I do know that when Barry McFarland showed up, he

24 had a hard time buying that number, too.

25 Q. Yeah. Okay. The -- and let me jump around just a

1 second. Your notification, your understanding -- your -- the time
2 when you knew that number was upgraded, you got the phone call
3 from --

4 A. Yeah.

5 Q. Was there a reason why he didn't call you from the ship?

6 A. I asked him later and he -- there was about an hour
7 delay. He was told -- again, we were at the mercy, I found out
8 later -- which if I had known, again, I would've give me that
9 boat, give it to me, you know. It wasn't -- we have a state log.
10 It's called posse comatose, actually, but I mean guess what, like,
11 you know, like you see in the Hollywood -- not that, but he --
12 when I asked him about that later, he said that he was -- I asked
13 him that night, later. He said well, I was waiting and I asked
14 your partner, Todd, your subordinate, and he said oh, we'll just
15 wait, you know, because they were saying the boat will be here in
16 five minutes, ten minutes and so okay, we'll just wait -- and you
17 know, I know he's busy. And then, like, 15 minutes went by and
18 okay, we better call. No, the boat will be here any second. So
19 they kept -- they were kind of being put over and over again and
20 so there was like an hour lapse where had he known it was going to
21 be that long, he would've called me from the vessel.

22 Q. Um-hum.

23 A. But he wanted to get back to the -- he knows how I am
24 and he knows I'm not going to -- before I go with -- run with
25 this, I need to know and you need to tell me, you know, so -- he's

1 -- we worked well enough together. I don't criticize that --
2 again, he was out there only four or five hours. I mean, he
3 didn't get underway until noon and I found out he had to drop off
4 happy meals or something to all the other boats or something. So
5 when he came back, he went to work, basically doing the work. He
6 came back knowing -- we worked together for years and even at Gate
7 Lands I worked with him and knowing -- he, knowing me, he wanted
8 to make sure that his "Is" were dotted.

9 Yeah. He knows me because I'm a pushback before -- and
10 so that's part of his thought process, he and Todd both, knowing
11 me that I would say okay, make sure that the chief engineer's
12 signed off on this. Don't actually -- I asked him about that and
13 he went back the next day. He says oh, well he was there, but I
14 didn't get his signature, he left. So he went back the next day
15 and got me a signature, that's the little --

16 Q. Okay. And I think this question was asked before, but
17 you weren't aware of the -- that was being acquired by those --
18 that were out there?

19 A. No, no.

20 Q. Okay. And so what decisions were made by you that you
21 had to make by yourself regarding the spill and vessel movement
22 without the U.S. Coast Guard, like -- or without --
23 representatives -- was there anything out of the ordinary or
24 normal that you wouldn't do with an orphan spill?

25 A. No. Like I said, we notified both federal, state

1 partners and local folks. Typically, we'll let the federal
2 government know by the state counterparts, but because they sit on
3 a lot of boards with us and every committee, it was just easier to
4 say hey, we just had a, you know, bridge allision with a container
5 ship. Notify the sanctuaries, OWCN, the Wet and the Wild, the
6 state parks, national parks. So those notifications were done
7 independent by the state, but I told -- center, I said you know,
8 we've done this, gone ahead and did this. And as far as just
9 calling Sacramento and Sacramento activating our stuff, just
10 getting our stuff -- because that's all I can really do at that
11 point.

12 Q. Right. And especially with not knowing the full
13 potential -- oversight.

14 A. Yeah, right.

15 Q. But when you did know that number and you made phone
16 calls, which started ramp-up --

17 A. Yeah.

18 Q. -- did you notice when that -- I mean, after the smoke
19 settled, dust cleared, -- 17 -- just say 5:30, 5:15.

20 A. Yeah, right.

21 Q. 5:30, and then at 8:00 there was an acknowledgement of
22 the number publicly.

23 A. Um-hum.

24 Q. In-between that time between 5:30 and 8:00, was there a
25 ramp?

1 A. On our side there was. I know -- actually, this
2 gentleman was called and notified and he started calling southern
3 California. We had our operations center in Sacramento getting
4 some people from Southern Cal. It started that ball rolling on
5 the state level.

6 Q. Okay.

7 A. On the federal side, I didn't see that. There were a
8 lot of questions. I'm not sure, but I think they did a sit-rep
9 where I think they already reported to their chain, to the admiral
10 and to Washington, D.C. I think, I don't know, but I think they
11 had already started reporting some lower numbers, like a 140 or
12 400 or something. So before they went ahead and --

13 Q. They did some homework?

14 A. Yeah, before they did -- went ahead and updated
15 something on such a gross -- because I know I got a call from
16 Avoni at 10:30 on the 7th. I was driving through Marin and I just
17 got to the command post at 10:00 and he called me at 10:30. He
18 was in Washington, D.C. It was 1:30. I said what are you doing?
19 He says well, I just heard that it's 58,000. How can it possibly
20 -- did you guys think of this, did you guys think of this, did you
21 remember that they transferred it, so it wouldn't have been -- I
22 said that's a best case scenario, 58. That's not talking about
23 any -- oil -- that's the best, best, best case scenario if it's
24 only 58,000.

25 Q. Um-hum.

1 A. So at 10:30 p.m., he was still being told by Commander
2 DeQuattro and Captain Uberti --

3 Q. To look into it.

4 A. Yeah, you -- this is what -- well, he actually sounded
5 sit-rep and he says there's no -- because everything he had been
6 reported, he was being given information and kind of helping
7 direct, feeling very guilty because again, we're close, but he
8 said that he -- so I know, for a fact, at 10:30, Coast Guard was
9 still having problems believing it to be 58,000.

10 Q. Okay.

11 A. Even after they told the rest of the world, they were
12 still, you know -- and I think they sent a team back out the next
13 morning to try and investigate that.

14 Q. And did you guys send someone out the next day?

15 A. I had Roy go back out to get a signature and he went and
16 he says I need to go out there and redo it because -- and part of
17 that was he kept getting questioned and questioned and questioned,
18 so he -- even though he was comfortable and believe it in his mind
19 and I believed him, he started -- I mean, human nature. He'd been
20 asked a million times and he's trying to go over it again. Did I
21 do this, did I do that, did I -- so he went ahead and took a more
22 in-depth approach, but he actually went through every single one
23 again and redid the calculations and redid the transfer and --

24 Q. Okay. When you -- and this is the last question. If
25 somebody were to show a picture of the side of the vessel ripped

1 open and you not knowing the vessel configuration or where double
2 bottoms are or where fuel is stored or ballast is stored --

3 A. Right.

4 Q. -- on the side of the ship, would your estimations be
5 based on potential?

6 A. Seeing that, my estimations would be on what they
7 potentially could hold in those -- yeah.

8 Q. Yeah.

9 A. And even though you don't know -- If water's in -- yeah,
10 I know that. They may move it around for --

11 Q. Okay.

12 A. Especially container ships because they have to weight
13 it and --

14 MR. ESTES: Okay, all right. That's it. And I think I
15 want to pass it on.

16 BY MR. HOLLY:

17 Q. Okay, I just -- kind of a couple of things to follow up
18 on. You mentioned that you -- drills in the bay area?

19 A. Yes.

20 Q. And also you'd been involved with ACP meetings?

21 A. Yes. Been a co-chair for almost six years now.

22 Q. Can you elaborate on that a little bit, you know, you've
23 been a co-chair, how many meetings have you been to, who goes to
24 the meetings?

25 A. Oh, yeah. We -- it sort of got quarterly, but a few

1 years ago, we went to every other month, so we have six a year.
2 I've probably been to about 25 -- between 25 and 30 area committee
3 meetings as the co-chair. And so I've been through the process
4 where, you know, whether it's a programmatic agreement or Section
5 VII consultation for environmental -- you know, species. So I've
6 been -- I'm not intimate in the exact verbiage of every page
7 within it, but I know the configuration, I know how to operate it
8 and I know what the plan is and I know what it's used for, so as
9 far as that, I'm very familiar with -- and with the local players,
10 too, so --

11 Q. Who are the people that normally -- could you describe
12 -- and I know it varies, but --

13 A. Right.

14 Q. -- say a normal meeting. Who are the normal players?

15 A. Yeah, the main players on a routine basis are Department
16 of Fish and Game, OSPR folks, there's usually one or two people
17 from the State Lands Commission, obviously, my counterpart with
18 the Coast Guard, there's usually two to three people with the
19 United States Coast Guard Response Division and occasionally,
20 Planning because now it's really under their shop. As I said
21 before, there's industry partners, usually about 50 percent of the
22 time, Chevron, Martinez, Shell, Kinder Morgan. There's a lot of
23 industry folks that go to those. As far as governmental agencies,
24 Contra Costa's pretty good about going every time. Marin used to
25 go, hasn't been in years. San Francisco sends their environmental

1 health person, but not their OES designate. Alameda occasionally
2 sends somebody, but it's mostly State Fish and Game, State Lands,
3 United States Coast Guard, VCDC and California Coastal Commission
4 are there every time, too. But it's pretty much -- there's a
5 group of about eight or ten entities that are there all the time.

6 Q. And in these ACP meetings, have you ever, to the best of
7 your knowledge, had, at the city level or town level, anybody talk
8 about assets that they had or exercised assets or --

9 A. We tried that a while back after -- I think it was a
10 year or two after 9/11 we looked at -- there's a couple of other
11 committees I sit on that are doing the same type of thing, Neptune
12 Coalition, for one. We're looking at response assets, any and all
13 hazard and so -- and part of what we've done for exercises is
14 making it more readily recognizable which vessels, if there were
15 an incident like an oil spill or what real time assets are
16 available, what's not in the shop, what has a pontin (ph.) that's
17 -- or it has an engine blown. So that's been something we've
18 looked at off and on probably about two to three times in the last
19 five years, but it never really catches any steam. Again, it's a
20 heavy look with all the other things we got going on with the
21 rewrites and --

22 Q. Sure.

23 A. -- limited power, but yeah, we've looked at that a
24 couple times, but not -- it never really went through. We used to
25 have a volunteer subcommittee, too, and we stopped getting -- in

1 that about 2005.

2 Q. Okay. Have you had anybody from the local communities,
3 say San Francisco and Oakland, share with you any drills that
4 they've done on their own with booming or skimming or anything
5 like that?

6 A. No. San Francisco, no. I'm trying to think whether
7 Alameda did or not. Alameda County may have a few years back, but
8 nothing memorable, no.

9 Q. Okay. Let me skip forward to the spill. One of the
10 presentations that was given in your presentation here was -- and
11 I guess it was a NOAA depiction --

12 A. Yes.

13 Q. -- of this spill and glob that went different places.

14 A. Yes.

15 Q. And you had mentioned, I think, from my notes, that you
16 hadn't had anybody report this huge glob. Did I get that right?
17 I know people were running into oil in the recovery, but was there
18 any depiction that you heard from anybody that said hey, there's
19 this huge thing that's moving around?

20 A. Yeah. Like I said -- I said that here in this interview
21 that we -- I had personally got a report from Golden Gate Ferry
22 operator that he went through what he thought was a giant oil
23 slick, but at the time -- there was some chatter back and forth on
24 the some of the marine frequencies saying hey, did you see that
25 oil and yeah and there was a couple fishermen that said I came in

1 this morning, there was -- you know.

2 Q. Pretty good size.

3 A. Pretty good size. And they were -- and we had reports,
4 but we didn't know if they were the same glob being reported or
5 whatnot. But yeah, there was definitely --

6 Q. Okay.

7 A. -- reports, but again, unsubstantiated. There was -- it
8 was more of a comment that hey, somebody must've burped out some
9 or dumped their -- or something because they saw a giant glob, you
10 know.

11 Q. Okay. And skipping to my last question, there was a lot
12 of talk and perception of the RP managing the spill and could you
13 go over your concept, when you have a unified command, you have a
14 federal, you have a state and you have an RP.

15 A. Yes.

16 Q. And under what circumstances, in your personal opinion,
17 based on your knowledge, would a spill be federalized, the Coast
18 Guard take over from the RP or would the state step in?

19 A. Okay, we're there -- and this happens 99 per cent of the
20 time that we have -- almost a hundred per cent of the time that we
21 have a responsible person identify our party. They are mandated
22 to pay for the spill cleanup and spill cost. We are there in an
23 oversight and a trustee, you know, status and we have ultimate
24 right of overwriting. We can veto at any point. But practice and
25 precedent and legislation is that they run the response and we

1 work in partnership with the industry and that's part of the
2 education process that I was talking about, that a lot of the
3 local agencies haven't drilled with us, haven't planned with us,
4 haven't been involved in spills, small ones or large ones.

5 I mean, even if it's a municipality and it's, you know,
6 city of San Francisco constantly has small discharges into the bay
7 and we go out there and we sit with them and we clean it up, but
8 we let them clean up and as long as they need guidelines and the
9 state and the federal government is comfortable that they're
10 complying with state and local and federal statutes and that
11 they're doing it in an efficient, effective, you know, practical
12 way and they're not looking at money, that they're throwing
13 everything that's necessary at it.

14 We just are there in an oversight, so where it would
15 become federalized or to a lesser extent, state-ized, I guess, if
16 that's such a word, that would be if we've gone -- if we, as
17 oversight, said hey, you know, you need more people -- and they
18 said no, we're not going to do or we need more skimmers out there,
19 you know, they're getting oil -- well, we'll get it tomorrow
20 morning. If we feel, at any point -- and they know that; it's not
21 a secret. Everyone knows that, that when we establish unified
22 command, we're here to provide support, oversight, but it's your
23 spill, clean it up, because you're -- or hire someone, because
24 most companies don't clean up, themselves. Hire somebody that's
25 professional to clean up, contractor, clean it up. But at any

1 point, if we feel we're going to give you one quick caution and
2 then we're jumping in and then that's when we federalize it and we
3 say okay, guess what? You're out of the unified command.

4 We'll run it and our attorneys will be billing you guys
5 later, so -- but that's the bottom line. We -- you know,
6 fortunately, in this era, this day and age, most companies realize
7 that and they know that there's penalties, there's fines, there's
8 -- especially if it's a public company or public entity, they know
9 that there's public perception involved with that, too. They got
10 stockholders, they got FCC filings, there's a lot of things that I
11 would like to think that that's being done, but again, if Atlantic
12 Richfield or -- being done by the goodness of their heart, but
13 they also know they've got public perception and that's huge in
14 this day and age, so --

15 MR. HOLLY: Yeah. Thank you. That's all I had.

16 BY MS. THOMAS:

17 Q. I just wanted to go over a couple of things we went over
18 today about the local stakeholders. Just a couple questions,
19 okay? The -- indicated that local stakeholders were upset with
20 the structure of the unified command and the desire of some local
21 stakeholders to operate outside of the established plans caused
22 confusion at all levels. What's your reaction to that statement?

23 A. The first part, let's talk about the first part. Yes,
24 there was local stakeholders that were upset. Again, we're going
25 to belabor this one. They were upset that the unified command was

1 even anywhere near making decisions and again, it's an education
2 process. There's still -- even though they're aware of it now and
3 they're educated on it, they're still not comfortable. They don't
4 -- and there's some proposed legislation to change that. If that
5 happens, then we roll with -- I'm the responder.

6 I'll go with what's being told. My reaction to that is
7 yeah, obviously they can't please everybody all the time and you
8 know, but we're going to do -- I know and the responders know
9 they're doing -- if for any means, that something isn't done to
10 our satisfaction, we get it done ourselves. And in this specific
11 response, I can cite 20 or 30 instances where we spent -- we, the
12 responsible parties, spent so much money just for perception.

13 I mean -- and a specific one would be having the
14 volunteer fishing fleet out there well after on water recovery was
15 really a viable option anymore. We still -- based on political
16 pressure and the will to get some "volunteers" in, the responsible
17 party paid \$3,000 a day to several fishing boats to drag a piece
18 of -- boom around behind them, but again, it's window dressing, so
19 those issues are there and so my comment to that is yeah, there's
20 always going to somebody upset and I understand where they're
21 coming from, although it's strictly an education process and once
22 they were educated, they still didn't like it, so I'm not sure
23 that that's the answer to either. But it's -- you know, it's the
24 way we do business.

25 Q. Okay.

1 A. And neither is it the second part of your question.

2 Q. Pardon?

3 A. There was something else on that, part two.

4 Q. Oh, yes. The desire of some local stakeholders to
5 operate outside of the established plans cause confusion at all
6 levels.

7 A. Yeah.

8 Q. What sort of confusion?

9 A. It wasn't -- I don't know if it was all levels. It
10 wasn't confusion at my level, but I know -- and those are
11 statements made by San Francisco, mainly, and Marin County. They
12 were not happy with being told that the responsible party's going
13 to stay in there. They weren't happy with the fact that O'Brien's
14 group was the operations section chief, logistics section chief
15 and planning section chief because they felt that they should be
16 -- they're the spillers or they represent the spillers and they're
17 not motivated by the same -- you know, strive and inertia that the
18 state people would be, so again, we explained to them hey, we have
19 people, oversight at every single position, whether it's a deputy
20 or whether it's, you know -- and basically, we ran the
21 environmental unit, the State of California did. And that is
22 where 90 per cent of the direction for planning section, anything
23 that was done in planning had to go through -- anyway, to get --
24 But again, it's an education process. They didn't understand it.
25 Strategically looking on an org chart, if the

1 president's at the top, we -- you know, way down here on the
2 bottom of the org chart is where the State of California was, not
3 realizing that in order to get -- at the very top, it had to be --
4 and there was direct communication between myself and the EU,
5 Environmental Unit, every single minute of every day, so if there
6 was any concerns, it was voiced at the unified command. But
7 again, those comments are made to -- those are people
8 -- then you're going to get the same thing from San Francisco and
9 Marin, when you talk to them, that they -- their perception is
10 that it wasn't being handled appropriately and that change needs
11 to take place.

12 But what they don't know is it was -- because my
13 environmental unit leader, Randy Emi was in contact with me every
14 20 minutes, every half hour, I mean, it was constant dialog and we
15 circumvented some of the ICS hierarchy just to make sure that that
16 was being handled, that that's why -- and several times the
17 responsible party tried to replace him with -- and talk about it,
18 but they tried to replace him with a private person, Polaris Group
19 person and I refused to and the Coast Guard backed down. But they
20 said he's taking too long or he's not doing this or -- I said
21 absolutely not, you know. I let you guys have a planning section,
22 gee, that's fine, but nothing -- I mean, he -- ops and
23 environmental unit were being run by state -- that's our job, so
24 -- but if you -- again, there's going to be people that weren't
25 happy with it and it's a perception because on the outside there

1 was frustration, they wanted to get involved and they felt like
2 their voice wasn't being heard. It was, but I had nine counties
3 to talk to and like he said, 101 cities, so --

4 Q. Did you feel comfortable with the role that O'Brien's
5 Group had being so prominent?

6 A. In the -- I did in everything except for the press
7 function. That's where I felt like we should've been a little
8 more proactive and I was -- that's something we looked at
9 internally later. One of my critiques was that we -- if I -- in a
10 perfect world, I would've like a lot more state presentation and
11 state prominence in that because I felt -- I was proud of what we
12 were doing. I was proud of the mission we were accomplishing and
13 I was there. I know what the state was doing and yet, it was the
14 Coast Guard and the O'Brien's Group had a lot of the public media,
15 so -- that was the -- the rest of the response I was fine.

16 Q. Okay.

17 A. But I think the PIO -- and it was mentioned, I think
18 there's a lot more emphasis on the O'Brien's Group than there
19 should've been and that's my personal opinion.

20 Q. Under the Standardized Emergency Management System, is
21 it correct that the affected local jurisdictions are usually
22 incorporated into the -- management as part of the unified
23 command?

24 A. No. They are plugged in a -- through -- in a liaison
25 function, but they are given input. But there's no way to -- like

1 I talked about earlier, there's no way to put 101 cities and nine
2 counties in the unified command and then amongst themselves, who
3 is going -- even if they wanted to designate one or two or three
4 more people, who -- I mean, you can just foresee how that would
5 work, which county is going to speak for the other counties.
6 There are too many issues. That's why we have a set-up that's
7 called a MAC, a Multi-Agency Coordination Unit, and they get
8 together and they're information is given to the liaison and then
9 straight to the unified command.

10 So that's how it does -- or unless they want to get some
11 technical expertise, which we've done in many cases like East Bay
12 Regional Park. That's not a municipality, but it is a regional
13 entity and they were plugged into -- as well as National Park
14 Service for Marin. They were plugged into -- excuse me, they were
15 plugged into the environmental unit or planning or SCAT operations
16 so that they had direct input into tactical operations. So they
17 should be given that option and I'm not sure -- again, there's a
18 lot of people there at this incident and I'm trying to make some
19 big overall decisions, so -- but that's their avenue, is to get
20 either in an advisory capacity through the liaison or if they
21 really want to plug in, it would be part of the response. But
22 then that means they work under the unified command, not under the
23 city anymore, you know, for that response, they're actually -- we
24 can task them with things. And a lot of cities and counties in
25 this incident did want to give up personnel for that. They would

1 come and be in the liaison function where they work still for the
2 city or county that they're assigned to. But if you plug into,
3 you know, environment unit, now you report to the planning section
4 chief and you report to unified command.

5 And so they take their marching orders from them and a
6 lot of cities and counties understand that and as such, they're
7 not comfortable, so it's kind of -- and you know, it's not
8 something you want to bring up in a multi-agency meeting like
9 that, but that's the reality of it. And the regional -- was
10 talking about that. He said well, if I'm in there, then I have to
11 do what the unified command says and I'm stuck with this, so I
12 like to be a technical advisor and that's what most of these
13 cities and counties -- San Francisco is one who wanted to be --
14 they're used to being head honchos, but there can only be so many
15 of us at one time, so that's where the rub is.

16 Q. All right. But in accordance with the ACP, local
17 agencies usually are involved with the unified command, correct?

18 A. Right, right. They can -- we -- they can be. If it
19 were something like -- for instance, we had a pretty good incident
20 in the Oakland estuary. We may, at that point, put in Oakland,
21 Oakland city person or an Alameda County person. This area's
22 unique. If it happened in LA, Long Beach harbor, no problem
23 putting LA County person in there. But you got, again, nine
24 counties that touch the Bay and how many cities here, so if it
25 were -- you know, if it were -- there is a way to do that and

1 that's -- I didn't want to go into the weeds on it, but you know,
2 certain areas, Humboldt County, fine, put the Humboldt County
3 officer in there or San Diego, put the San Diego city person in.
4 But when you get to San Francisco Bay area and there's a lot of --
5 there's two U.S. senators that come from here and the Speaker of
6 the House, to start with, and then -- and the Chief of Staff for
7 Governor Schwarzenegger lives in Marin, so -- I mean, which --
8 who's more important, which county is more important and everybody
9 thinks they are, so --

10 Q. Okay.

11 A. -- this is unique.

12 Q. One last thing I just wanted to touch on is volunteers
13 and what impact did the volunteer groups have on the work of the
14 contracted cleanup crews?

15 A. Not much. The responsible party in this was their
16 issue. For liability, did not want to work on the same geographic
17 area as volunteers, for liability. So that -- there was some
18 impact, I think one or two instances, and this was a legal issue
19 that we really had a hard time overriding, authority-wise. The
20 responsible party said we talked to our attorneys and if we have
21 contracted people under our pay, working on a beach right next to
22 somebody that isn't and there's an injury or somebody goes down
23 and we got safety officers and we have supervisors, it's too fine
24 a line and they didn't want to.

25 So that was the one demand that they had, that we, as

1 the unified command, decided -- we talked to our attorneys and
2 that's what we went with, that if we're going to be doing unified
3 command, Cosco Busan unified command operations on a beach, rock
4 wall, whatever, that we could not have -- co-locate volunteers and
5 so that was the impact that they potentially had and we only had
6 real instance where we had to actually remove volunteers from, you
7 know -- and there was no arrest, but we just had to physically
8 send a couple of park rangers out to say hey, you need -- we can't
9 stop you from doing it, but don't do it here because it's impeding
10 work and they were -- the instructions from the -- and we looked
11 into it and any contractor that we would've brought out would've
12 had the same restriction, so that's a legal issue that's still
13 going to have to be brought up, but those -- really, the only
14 impacts, because we -- if we didn't condone it and we didn't have
15 it under unified command -- they can -- you know, volunteers can
16 do whatever they want and it becomes a third party claim, but it's
17 not under our liability of unified command, but we could not have
18 a co-located operation going on at the same time.

19 Q. Did the whole issue for the push for volunteers, did
20 that result in any distraction to the unified command?

21 A. Yes.

22 Q. How so?

23 A. It tied up -- notwithstanding all the political people
24 that came in, don't let us interrupt you, but yet we had to shut
25 down operations for every senator and every investigative body,

1 including the NTSB. That's just for the record, but --
2 Mr. Chairman. But anyway -- but notwithstanding, yes, absolutely
3 there was -- we had -- there was a lot of time tied up with
4 attorneys, with policy makers. This -- because this was something
5 going against an ACP. This is something that the Coast Guard was
6 adamant about. Several counties were saying hey, we don't clean
7 up oil, yet we were getting political pressure from others to get
8 groups out there. If you don't do it, they're going to do it on
9 their own. So it absolutely did.

10 Thankfully, it didn't happen until Day 3, 4, 5, so the
11 ball was rolling and it didn't effect field operations, but as far
12 as unified command operations, absolutely. There was so much of
13 my time tied up trying to decide where are we going to go with
14 this and talking. And I think, you know, if we can resolve this
15 so it never happens again, that would be a huge thing because it
16 didn't -- fortunately, we had IAPs already written and the next
17 day's objectives were out there and they're briefing and so people
18 in the field had no idea what was going on, but internally, it
19 did. It did probably tie up 30 per cent of our time for a day or
20 two.

21 Q. Well, what would you have been doing with that time if
22 you weren't dealing with the volunteer?

23 A. Oh, just working on -- you know, working on what really
24 should've been handled response-wise and we could've more
25 efficiently done it or tried to get a little more sleep, because

1 what we didn't accomplish in that two or three hour window of
2 doing that, we just stayed later and the IAP was written. It was
3 written, you know -- it might've been signed off at 7:00 instead
4 of 10:00 at night. So I mean, ultimately, the work done but the -
5 - you know, taxing of the unified command and the general staff
6 members.

7 Q. As --

8 A. And for the record, we never did shut down operations.
9 It was 24/7 in the command post.

10 Q. So the command post was open 24/7?

11 A. Absolutely.

12 Q. Not closing --

13 A. Twenty-four/seven. No. We stopped off on-water
14 operations at night because it was unsafe.

15 Q. At sunset?

16 A. Sunset, yeah. We didn't do -- and -- and beaches when
17 people could get hurt or injured at night. We're just not going
18 to do it. It's still just oil. It's not -- we're not looking for
19 human -- you know, it's still just oil.

20 MS. THOMAS: I'll pass. That's all I have. I'll pass.

21 BY MR. STANSEL:

22 Q. Yes, just one or two more. Could you elaborate on your
23 contact with the San Francisco Police and Fire Department
24 officials?

25 A. Yeah, the San Francisco Fire was in contact with the

1 Coast Guard and I know that because they were supposed to be
2 coming to a Neptune Coalition meeting that I was actually there
3 for. They called up Coast Guard sector because I asked about San
4 Francisco specifically and they said oh, yeah, Fire called, that
5 we moved the vessel to anchorage already and they called and
6 offered up their services and I think it was the Coast Guard that
7 said we appreciate it, but just stand down for now.

8 And then Danny Lopez, who is the -- runs the -- heads
9 the San Francisco Police Marine Unit is very tight with our group
10 and I talked with him sometime during the day and he said yeah,
11 you know, we -- I guess you guys got security hat on and I can't
12 see anything and he -- so he was engaged and he said he'd been
13 engaged early on that morning. He heard about it on the frequency
14 and his initial thought was a terrorism incident, you know, and
15 then when he found it wasn't and -- I think he actually stayed on
16 the water for a little bit, the San Francisco Police boat did.
17 I'm not sure -- but I know, I talked with him later. I talked to
18 him the next morning and he said oh, yeah -- you know, I told my
19 chain of command, so I don't know where the slip-up was between
20 San Francisco Fire filed supervisors and police supervisors and
21 the mayor's office, but they were definitely engaged and there's a
22 lot of criticism that the Coast Guard wasn't engaging the City of
23 San Francisco, but -- I mean, they might not have called the mayor
24 and his -- or whatever, but we were talking with the city
25 officials, you know, and actually, I was talking quite a bit with

1 the Port of San Francisco, also, later on in the day.

2 He was saying -- of course, I didn't ever say how much
3 fuel he had, you know, I didn't say -- none of that went out until
4 I knew for sure, but they knew there was an incident, they knew of
5 the potential and I think, in their defense, I think they had been
6 getting some information from the Coast Guard, potentially, that
7 was -- you know, we had -- thank God we got lucky on this. It was
8 only 140-something gallons, so -- and I only know that in -- in
9 hindsight now, but they were definitely integrated in early on,
10 within the first three, four hours, both city and fire -- city,
11 fire and police.

12 Q. Did they express any interest in participating in the
13 oil spill activities or --

14 A. Yeah. Yeah, the next day the police sergeant talked to
15 me about it and said hey, if you need anything, let me know and at
16 that point, once we had seen, you know, until we could get some
17 helicopters in there, we had enough on-water assets, so it wasn't
18 a matter of chasing down oil anymore.

19 Q. Okay.

20 A. I was just getting our skimmers to the most -- to the
21 areas where it would be most effective, real time, because the oil
22 was moving.

23 Q. One last question. Do you take any issue with the fact
24 that the formal notification from the ship to OES occurred 72
25 minutes after the event? I think the state law mandates 30

1 minutes.

2 A. Yeah, unless there's an emergency that they're attending
3 to, i.e. fighting a fire or man overboard drill or something or
4 man overboard, actually. That -- I'm not comfortable. Again, I
5 haven't been on the investigative side, so I have to be really
6 careful of what I say, because -- but that's not uncommon, you
7 know, an hour and 12 minutes. That's not uncommon, especially
8 given the fact that they really didn't know what they had in the
9 fog and they were, you know, making sure they weren't, you know,
10 colliding with -- you know, they had just allided with the bridge,
11 make sure they weren't colliding with another vessel and I think
12 there's a lot of things they're trying to tend to and even
13 ascertain if they had spilled. Now, if it were a bluebird
14 sunshine day and this happened, absolutely, and there was no man
15 overboard, no fire, there's no reason that they shouldn't, within
16 15, 20 minutes, send the third mate or somebody to look over the
17 side. I mean, if he -- I don't know the specifics, but look over
18 the side, holy, holy smokes, ai caramba, you know, and there's no
19 -- but given the specifics -- and again, I'm not in the
20 investigation. I don't know the transcripts, I have been
21 purposely shielded from that because we bifurcated, but if you're
22 asking an opinion from, you know, a criminal investigator, that's
23 my other hat. I don't have an issue with it, given the weather
24 conditions that we had and the circumstances around us. That's
25 not uncommon. It may have been reasonable for them to do it

1 earlier, I don't know, but it's not uncommon, so I don't really
2 take an issue with an hour.

3 MR. STANSEL: Okay. I'm done.

4 MR. ROBERTS: Done, okay.

5 MS. THOMAS: Thank you very much. We appreciate it.

6 (Whereupon, the interview in the above-entitled matter
7 was concluded.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: The Investigation of the Cosco
 Busan/Bridge Allision
 San Francisco, California
 Interview of Rob Roberts

DOCKET NUMBER: DCA-08-MM-004

PLACE: San Francisco, California

DATE: March 12, 2008

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

David Martini
Transcriber